from Senators is to the effect that we ought to proceed with it and conclude it.

Mr. TELLER. I was not alarmed about its being continued, for I know that can not be done by law, but that we might decline to proceed to try the case. We would disgrace ourselves before the world if we declined to proceed with it.

Mr. PLATT of Connecticut. I do not think the Senator need have any apprehension on that point.

MISSOURI RIVER BRIDGE AT YANKTON, S. DAK.

Mr. GAMBLE. I ask unanimous consent for the present consideration of the bill (S. 6450) to amend an act entitled "An act authorizing the Winnipeg, Yankton and Gulf Railroad Company to construct a combined railroad, wagon, and foot-passenger bridge across the Missouri River at or near the city of Yankton, S. Dak."

Mr. BEVERIDGE. In this connection, I ask unanimous consent that the unfinished business shall be laid aside for the consideration of the bill the Senator from South Dakota has called up, and for nothing else.

The PRESIDENT pro tempore. The Senator from Indiana asks unanimous consent that the unfinished business be temporarily laid aside for the consideration of the bill indicated by the Senator from South Dakota. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. KEAN. If it is agreeable to the Senator from Indiana, I will move that the Senate proceed to the consideration of executive business.

Mr. BEVERIDGE. It is entirely agreeable.

Mr. KEAN. I make that motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at 3 o'clock and 30 minutes p. m.) the Senate adjourned until Monday, January 23, 1905, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 21, 1905.

COLLECTOR OF CUSTOMS.

Charles B. Crosno, of Oregon, to be collector of customs for the District of Yaquina, in the State of Oregon. (Reappointment.)

PROMOTIONS IN THE ARMY.

Subsistence Department.

Lieut. Col. Henry B. Osgood, deputy commissary-general, to be assistant commissary-general with the rank of colonel, January 19, 1905, vice Alexander, retired from active service.

Maj. William H. Baldwin, commissary, to be deputy commissary-general with the rank of lieutenant-colonel, January 19, 1905, vice Osgood, promoted.

Medical Department.

Lieut. Col. John Van R. Hoff, deputy surgeon-general, to be assistant surgeon-general with the rank of colonel, January 19, 1905, vice Smart, retired from active service.

Maj. William B. Davis, surgeon, to be deputy surgeon-general with the rank of lieutenant-colonel, January 19, 1905, vice Hoff, promoted.

Capt. Champe C. McCulloch, jr., assistant surgeon, to be surgeon with the rank of major, January 19, 1905, vice Davis, promoted.

Ordnance Department.

Lieut. Col. Charles S. Smith, Ordnance Department, to be colonel, January 19, 1905, vice Shaler, retired from active service.

Maj. Andrew H. Russell, Ordnance Department, to be lieutenant-colonel, January 19, 1905, vice Smith, promoted.

Capt. Beverly W. Dunn, Ordnance Department, to be major, January 19, 1905, vice Russell, promoted.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 21, 1905.

COMMISSIONER OF IMMIGRATION.

Robert Watchorn, of New York, to be commissioner of immigration at the port of New York, N. Y., in the Department of Commerce and Labor, to take effect February 11, 1905.

REGISTER OF LAND OFFICE.

Henry H. Myers, of Arkansas, to be register of the land office at Little Rock, Ark.

COLLECTOR OF INTERNAL REVENUE.

Ernest Coldwell, of Tennessee, to be collector of internal revenue for the fifth district of Tennessee.

APPRAISER OF MERCHANDISE.

Miner G. Norton, of Ohio, to be appraiser of merchandise in the district of Cuyahoga, in the State of Ohio.

APPOINTMENTS IN THE NAVY.

John H. Blue and Thomas G. Foster, jr., citizens of New York and Alabama, respectively, to be assistant surgeons in the Navy, from the 16th day of January, 1905.

PROMOTION IN THE NAVY.

Lieut. (Junior Grade) John A. Schofield to be a lieutenant in the Navy, from the 17th day of June, 1904.

POSTMASTERS.

FLORIDA.

Peter P. Cobb to be postmaster at Fort Pierce, in the county of Brevard and State of Florida.

Charles C. Peck to be postmaster at Brooksville, in the county of Hernando and State of Florida.

MARYLAND.

Alfred Sigler to be postmaster at Ridgely, in the county of Caroline and State of Maryland.

MINNESOTA.

Charles H. Strobeck to be postmaster at Litchfield, in the county of Meeker and State of Minnesota.

MISSOURI.

Elmer E. Hart to be postmaster at Eldon, in the county of Miller and State of Missouri.

Warren W. Parish to be postmaster at Adrian, in the county of Bates and State of Missouri.

MONTANA.

Grace Lamont to be postmaster at Dillon, in the county of Beaverhead and State of Montana.

PENNSYLVANIA.

Scott Bancroft to be postmaster at Shinglehouse, in the county of Potter and State of Pennsylvania.

Thomas Pickrell to be postmaster at Oldforge, in the county of Lackawanna and State of Pennsylvania.

Francis A. Seip to be postmaster at Palmerton, in the county of Carbon and State of Pennsylvania.

TENNESSEE.

Joseph C. Hale to be postmaster at Winchester, in the county of Franklin and State of Tennessee.

WASHINGTON.

William P. Ely to be postmaster at Kelso, in the county of Cowlitz and State of Washington.

Olaf N. Erickson to be postmaster at Auburn, in the county of King and State of Washington.

George D. C. Pruner to be postmaster at Blaine, in the county of Whatcom and State of Washington.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 21, 1905.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

TRANSFER OF CERTAIN UNUSED PORTION OF THE NATIONAL CEMETERY RESERVATION, CHATTANOOGA, TENN.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 181.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] asks unanimous consent for the present consideration of House joint resolution 181, the title of which the Clerk will report.

The Clerk read as follows:

Authorizing the Secretary of War to transfer to the militia cavalry organization at Chattanooga, Tenn., a certain unused portion of the national cemetery reservation at Chattanooga, Tenn.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

Joint resolution (H. J. Res. 181) authorizing the Secretary of War to transfer to the militia cavalry organization at Chattanooga, Tenn., a certain unused portion of the national cemetery reservation at Chattanooga, Tenn.

Resolved, etc., That the Secretary of War is hereby authorized and directed to turn over to the possession of the militia cavalry organization of the National Guard of the State of Tennessee stationed at Chattanooga, Tenn., now known and designated as Troop B, Unattached Cavalry, National Guard State of Tennessee, or such other designation as it may hereafter be given, and its successors, that portion of the national cemetery reservation belonging to the United States Government, at Chattanooga, Tenn., which lies outside of said cemetery and west of the south gate thereof, formerly occupied as an army post and now abandoned and lying in the common, the same comprising about 5 acres, more or less, and further described as follows: Bounded on the north by the tracks and right of way of the Western and Atlantic and Cincinnati Southern railways, on the east by the national cemetery and the Government road leading thereto, and on the south and west by the track and right of way of the Chattanooga Belt Railway.

SEC. 2. That said cavalry organization shall be permitted to use said property for military purposes and to erect thereon an armory, riding hall, stables, and such other buildings and exercising tracks as may be necessary to its use for said military organization.

SEC. 3. That if at any time said military organization shall cease to exist or should fail to use said property for military purposes, then the same shall revert to the city of Chattanooga, Tenn., as provided in resolution No. 56, approved October 1, 1890. And it is further reserved to the United States the right to use said lands for military purposes at any time upon the demand of the President of the United States.

SEC. 4. That in the event of the reversion of said lands said military organization shall have the right to remove therefrom any building or buildings that may have been erected thereon at its own or other than Government expense.

The bill was ordered to be engrossed and read a third time; and was accordingly read the third time, and passed.

On motion of Mr. MOON of Tennessee, a motion to reconsider the last vote was laid on the table.

GRANT OF CERTAIN PROPERTY TO GLOUCESTER COUNTY, N. J.

Mr. LOUDENSLAGER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 5763) granting certain property to the county of Gloucester, N. J.

Mr. LOUDENSLAGER. Mr. Speaker, I ask unanimous con the consideration of the bill the title of which the Clerk will report.

The Clerk read as follows:

A bill (S. 5763) granting certain property to the county of Gloucester, N. J.

Mr. PAYNE. Mr. Speaker, I would like to hear the bill read.

The SPEAKER. The Clerk will report the bill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby directed to convey, by proper patent, to the board of chosen freeholders of the county of Gloucester, in the State of New Jersey, to and for the use and benefit of said county, as a public park, such part of the abandoned Redbank Military Reservation in said county, not to exceed 20 acres, as may be designated by said board, after the same has been properly surveyed under the direction of the Commissioner of the General Land Office.

SEC. 2. That the ownership, fee, and title conveyed by said patent shall revert to and reinvest in the United States, without any formal declaration of forfeiture thereof, at any time when said county shall fail to establish and maintain thereon a public park as a memorial to the battle fought thereon on October 22, 1777, or when said county shall use, or permit any part of said lands to be used, for any purpose not necessarily incident to the maintenance of such park.

Mr. PAYNE. Mr. Speaker, this seems to be another giving away of public property; but there was a similar bill brought up on the other side, and as this is getting even I do not know that I shall object.

Mr. LOUDENSLAGER. It is not a giving away.

Mr. PAYNE. How many acres are there in this land that is proposed to be given away?

Mr. LOUDENSLAGER. Nineteen and seventy-eight hundredths acres, to be exact.

Mr. PAYNE. As we gave away five acres on the other side, I do not know but what this would even it up.

Mr. LOUDENSLAGER. I will say to the gentleman that this has the approval of the War Department.

Mr. PAYNE. I give notice that when any more bills giving away the public lands come up, I shall object.

Mr. LOUDENSLAGER. The gentleman from New York is mistaken.

The SPEAKER. The Chair hears no objection.

Mr. LOUDENSLAGER. I ask unanimous consent to postpone the further consideration of this bill until Monday morning.

The SPEAKER. Then it can be pending as unfinished business. The gentleman asks that consideration be postponed until Monday morning. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

DISTRICT APPROPRIATION BILL.

Mr. McCLEARY of Minnesota, from the Committee on Appropriations, reported the bill (H. R. 18123) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1906, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. WILLIAMS of Mississippi. I reserve all points of order.

The SPEAKER. The gentleman from Mississippi reserves all points of order.

SALARIES OF CLOAKROOM MEN.

Mr. CASSEL. Mr. Speaker, I am directed by the Committee on Accounts to make the following report.

The Clerk read as follows:

The Committee on Accounts, to whom was referred House resolution No. 411, having for its purpose an increase of the salaries of Arthur Lucas and L. W. Pulles, cloakroom men, from $50 per month to $60 per month, have had the same under consideration, and recommend in lieu thereof the adoption of the following resolution:

"*Resolved*, That the Clerk of the House of Representatives is hereby authorized and directed to pay out of the contingent fund of the House to Arthur Lucas, L. W. Pulles, and Albert Scott, respectively, the difference between their pay as cloakroom men at the rate of $50 per month and the rate of $60 per month, each, during the remainder of the present Congress, and the Committee on Appropriations is hereby authorized to provide in one of the general appropriation bills for said increase from and after March 4, 1905."

There are four cloakroom men, two on each side of the House. One receives a salary of $60 per month, while the other three receive but $50 per month. The purpose of the foregoing resolution is to equalize their salaries at the higher rate, your committee believing the services rendered by these men to warrant the increase. Albert Scott, one of the cloakroom men on the Democratic side, while not named in the original resolution, is in the class with Lucas and Pulles, and he is therefore included in the resolution herewith recommended. This resolution provides for said increase out of the contingent fund for the remainder of this Congress, and thereafter by provision to be inserted by the Committee on Appropriations in one of the general appropriation bills.

Mr. MADDOX. I would like to ask the gentleman in charge of the resolution where the one is who is receiving $60?

Mr. CASSEL. One of the men on the Democratic side, who has received $60 for a number of years. This was reported before the whole committee and it agreed to put it at that.

Mr. MADDOX. That is equalizing the pay?

Mr. CASSEL. To equalize the pay, giving them just the same as has already been paid on the Democratic side.

The question was taken, and the resolution was agreed to.

INDIAN APPROPRIATION BILL.

Mr. SHERMAN. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union, Mr. CURRIER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill.

The Clerk read page 38, line 5.

Mr. STEPHENS of Texas. Before we pass the present paragraph I desire to offer an amendment at the end of line 4, page 38.

The Clerk read as follows:

At the end of line 4, page 38, insert:

"That in addition to the places now provided by law for holding courts in the southern judicial district of Indian Territory courts shall be held in the towns of Duncan and Bartlettsville, and all laws regulating the holding of the courts in the Indian Territory shall be applicable to the said courts hereby created in the said towns of Duncan and Bartlettsville, and the judge of said court shall, by order on his docket, define the boundaries of said court's jurisdiction."

Mr. SHERMAN. I desire to reserve the point of order against that amendment. I have not heard anything about it until this morning.

Mr. STEPHENS of Texas. I would like to be heard. Mr. Chairman, the town of Duncan has had a bill pending in Congress for two or three sessions providing for a court at that place. Its geographical position is such that it is imperatively demanded. The town is situated 35 miles south of the town of Chickasha, where the nearest court is held, and it is probably farther from the town of Ryan. These towns are more than 80 miles apart and are on the Rock Island Road. This railroad passes across the western end of the Chickasaw Nation, which has two places to hold the court in a distance of 100 miles, Chickasha and Ryan being the present places.

This is the largest town on that road in the Indian Territory except Chickasha. It is a town of about 3,000 people. It does more business than any other town in the Territory. It is exactly in the center between the towns of Chickasha and Ryan and nearly 40 miles from either place.

Mr. SHERMAN. I understood your amendment to fix two additional places.

Mr. STEPHENS of Texas. Two additional places only. Let me state in addition that a bill providing for Duncan as one of the places of holding court has passed this House, I believe, three times—twice I know—and passed the Senate once, but it got into some parliamentary tangle and did not get to the President, and so has not become a law. Certainly if there is a place in the Indian Territory that deserves a court it is this place.

Mr. SHERMAN. How many places for holding court are there at present in the district?

Mr. STEPHENS of Texas. I think there are five, and an additional judge was placed there by the last Congress, but we only gave one additional place for holding court when we gave them one additional judge. This will not cost the Government one cent, and it will be a great benefit to the people.

Mr. SHERMAN. This makes seven places for holding court in that district.

Mr. STEPHENS of Texas. In that southern district, and four of them are on the Rock Island road.

Mr. CURTIS. I want to suggest that you strike out the word "southern," because Bartlettsville is in the northern district. Bartlettsville is a great oil and gas center.

Mr. PAYNE. This illustrates the danger of this kind of legislation. I insist on the point of order.

The CHAIRMAN. The gentleman from New York [Mr. PAYNE] insists on the point of order.

Mr. STEPHENS of Texas. I hope the gentleman will withdraw his point of order as to Duncan, at least.

Mr. PAYNE. I object to establishing places for holding courts in the Indian Territory on the Indian appropriation bill. We have a Judiciary Committee in this House, and now they are through with the impeachment case they have nothing else to do except to consider this question. It develops in this debate that the gentleman from Texas, or the gentleman from Kansas, one or the other, does not know the judicial district in which one of these places is located.

Mr. CURTIS. The gentleman from Kansas knows where the judicial districts are located.

Mr. PAYNE. The gentleman from Texas had this town located in one district. The gentleman from Kansas corrected him, putting it in another, and suggesting an amendment. I suggested impartially between the two that either the one or the other did not know where it was located.

Mr. CURTIS. The gentleman from Texas [Mr. STEPHENS] said nothing about the town of Bartlettsville. I simply suggested to the gentleman from Texas that the town of Bartlettsville was not in the southern district.

The CHAIRMAN. The question before the House is the point of order made by the gentleman from New York [Mr. PAYNE]. Does the gentleman from Texas care to be heard on the point of order?

Mr. STEPHENS of Texas. I think the point of order is well taken.

Mr. SHERMAN. The gentleman from New York [Mr. PAYNE] made the point of order.

Mr. STEPHENS of Texas. I think it is new legislation and subject to the point of order, but I hoped that out of courtesy the gentleman would not make it.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. LACEY having taken the chair as Speaker pro tempore, a message was received from the Senate announcing that it had passed without amendment bills of the following titles:

H. R. 17577. An act authorizing the Lindsey Lumber Company, a corporation of Escambia County, Ala., to construct a bridge across Conecuh River at or near the town of Pollard, in said county and State; and

H. R. 16802. An act to authorize the Commissioners of the District of Columbia to enter into contract for the collection and disposal of garbage, ashes, and so forth.

The message also announced that the Senate had passed bill of the following title; in which the concurrence of the House of Representatives was requested.

S. 6314. An act for the relief of certain receivers of public moneys, acting as special disbursing agents, in the matter of amounts expended by them for per diem fees and mileage of witnesses in hearings, which amounts have not been credited by the accounting officers of the Treasury Department in the settlement of their accounts.

The message also announced that the Senate had passed with amendments bill of the following title; in which the concurrence of the House of Representatives was requested:

H. R. 15477. An act to change the name of Thirteen-and-a-half street to Linworth place.

The message also announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 94.

Resolved by the Senate (the House of Representatives concurring), That the statue of John J. Ingalls, presented by the State of Kansas to be placed in Statuary Hall, is accepted in the name of the United States, and that the thanks of Congress be tendered the State for the contribution of the statue of one of its most eminent citizens, illustrious for his distinguished civic services.

Second. That a copy of these resolutions, suitably engrossed and duly authenticated, be transmitted to the governor of the State of Kansas.

INDIAN APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

That so much of the act of March 3, 1903, as provides that the grazing lands to be set apart for the use of the Uintah, White River Utes, and other Indians on the Uintah Reservation, as provided by public resolution No. 31, of June 19, 1902, shall be confined to the lands south of the Strawberry River, be, and the same is hereby, repealed.

Mr. FINLEY. I desire to reserve the point of order on this paragraph, line 5, down to and including line 11, for the purpose of having some explanation.

Mr. SHERMAN. The original act provided for setting aside 250,000 acres for grazing land for these Indians, and provided for locating it at a point in the reservation south of the Strawberry River. Now it appears that the Indians are located north of the Strawberry River, and from 40 to 60 miles therefrom, so that under the provision of the law the location must be at a distance of from 40 to 60 miles from where the Indians are located, and that the land is no better. This provision removes that restriction and permits the location north of the Strawberry. It does not change the amount to be set aside; it does not change the law as to the setting aside of the land for pasture, but simply makes it possible for the Department to make the location north of the Strawberry, nearer where the Indians are now located.

Mr. FINLEY. I simply wanted to know if the provision was in the interest of the Indians or in the interest of the cattle owners.

Mr. SHERMAN. It is in the interest of the Indians, and is inserted here at the recommendation of the Department.

The CHAIRMAN. The gentleman from South Carolina withdraws the point of order.

Mr. HOWELL of Utah. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

After line 11, page 38, insert "but the land so set apart in pursuance of said resolution of June 19, 1902, shall not exceed 250,000 acres."

Mr. HOWELL of Utah. Mr. Chairman, in explanation of the amendment I wish to say that the resolution of June 19, 1902, simply authorized the Secretary of the Interior to set apart such a quantity of grass land as might subserve the purposes of the Indians. The act of March 3, 1903, provided that the lands that were set apart for the grazing of live stock of the Indians should be located on the south side of the Strawberry River. In the opinion of some attorneys whom I have consulted in regard to this matter, the present section repealing the act of March 3, 1903, might be construed to also repeal the limitation of 250,000 acres; therefore, to remove any doubt and to establish the fact for a certainty that the limitation of 250,000 acres is to stand, I have offered this amendment.

Mr. SHERMAN. Mr. Chairman, I think this amendment is absolutely unnecessary. The gentleman from Utah called my attention to it, and I told him so then, and to make assurance doubly sure, I submitted it to the Department, to the Secretary, and he submitted it to his law officer, who writes me that "as to the suggestion of Mr. HOWELL that it should be made clear that the grass lands are not to exceed 250,000 acres. The Commissioner suggests, and I agree, that the bill as it now stands modifies existing legislation only as to the condition of the grass land, leaving the quantity intact as to the number of acres set aside for that purpose."

So it seems to me, Mr. Chairman, that this amendment is entirely unnecessary.

The question was taken; and on a division (demanded by Mr. SHERMAN) there were—ayes 7, noes 29.

So the amendment was rejected.

The Clerk read as follows:

That the time for opening the unallotted lands to public entry on the Uintah Reservation in Utah, as provided by the acts of May 27, 1902, and March 3, 1903, and April 21, 1904, be, and the same is hereby, extended to October 1, 1905: *Provided*, That so much of said lands as will be under the provisions of said acts restored to the public domain shall be open to settlement and entry by proclamation of the President of the United States, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons intending to make entry thereon; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars or Philippine insurrection, as defined and described in sections No. 2304 and No. 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged.

Mr. SHERMAN. Mr. Chairman, I offer the following amendment.

Mr. HOWELL of Utah. And to that amendment, Mr. Chairman, I make a point of order on the ground that it repeals existing law and is new legislation.

Mr. SHERMAN. Does the gentleman make the point of order or reserve it?

Mr. HOWELL of Utah. I will reserve the point of order to hear the amendment.

Mr. SHERMAN. Then, Mr. Chairman, I ask that the Clerk read the amendment which I offer.

The CHAIRMAN. The Clerk will read the amendment for the information of the committee.

The Clerk read as follows:

Page 38, line 17, after the word "five," insert "unless the President shall determine that the same may be opened at an earlier date."

Mr. SHERMAN. Now, Mr. Chairman, just a word.

Of course I do not contend for a moment that the amendment is not subject to a point of order. It does change existing law. I had discussed the subject with the gentleman from Utah, and I certainly understood from the conversation that this modification was in line with his ideas; that he thought it was wise; and, in fact, the amendment was in part drawn to conform with his ideas on the subject, and I am a bit astonished that the gentleman now rises to a point of order against the amendment. But if he does raise it I shall not attempt to argue that it is in order.

Mr. HOWELL of Utah. With that explanation, Mr. Chairman, I will withdraw the point of order. Now, I desire to offer an amendment to the entire section.

The CHAIRMAN. The question is first on agreeing to the amendment proposed by the gentleman from New York.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The gentleman from Utah offers the following amendment, which the Clerk will report.

The Clerk read as follows:

That the time for opening the unallotted lands to public entry on the Uintah Reservation in Utah having been fixed as the 10th day of March, 1905, it is hereby provided that so much of said lands as will be under the provisions of said acts restored to the public domain shall be open to settlement and entry by proclamation of the President of the United States, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons intending to make entry thereon; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of four months from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars or Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged: *And further provided*, That for one year immediately following the restoration of said lands to the public domain said lands shall be subject to entry only under the homestead, town-site, and mining laws of the United States.

Mr. HOWELL of Utah. Mr. Chairman, I desire to discuss briefly some matters pertaining to the Uinta Indian Reservation, in Utah, and as a preface to my remarks will give a short description of said reservation, same being taken from the comprehensive report of Mr. Cyrus C. Babb, of the Geological Survey. It is located in northeastern Utah, and was set aside by executive order of President Lincoln on October 3, 1861, which order was subsequently approved by four acts of Congress, the latest bearing date of May 24, 1868. The reservation includes almost entirely the drainage basin of the Duchesne River with its main tributary, Uinta River. The total area is 2,039,040 acres, or 3,186 square miles. Its northern boundary is the divide of the Uinta Mountains, whose peaks attain an elevation of over 13,000 feet. Its western boundary is a portion of the Wasatch Range, while its southern boundary is an irregular line over the rolling country between the basin of the Minnie Maud Creek and the small tributaries of the Duchesne. Green River forms the boundary for a short distance at the southeastern extremity. The eastern boundary as originally surveyed was afterwards modified by act of Congress approved May 24, 1888, in order to exclude the so-called "strip," a triangular area of 7,000 acres east of Fort Duchesne, which contains valuable uintaite or gilsonite deposits. The greatest due east-west length is about 75 miles, with a north-south width of approximately 60 miles.

The northern part of this reservation is of great altitude and is densely wooded; it is in this part that all water courses draining the reservation find their source. This particular portion will not be thrown open to entry, but is to be set aside as a forest reserve and will later be incorporated with the present Uintah Forest Reserve.

I wish also to embody in my remarks the legislation enacted by Congress with a view to allotting to the Indians resident on the reservation lands in severalty in order that the remainder or excess of lands within the reservation might be restored to the public domain and thus be made available for entry and settlement. The Indian appropriation act of May 27, 1902, contains, among others, these provisions:

That the Secretary of the Interior, with the consent thereto of the majority of the adult male Indians of the Uintah and White River tribes of Ute Indians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family 80 acres of agricultural land, which can be irrigated, and 40 acres of land to each other member of said tribes, said allotments to be made prior to October 1, 1903, on which date all the unallotted lands within said reservation shall be restored to the public domain: *Provided*, That persons entering any of said land under the homestead law shall pay therefor at the rate of $1.25 per acre: *And provided further*, That nothing herein contained shall impair the rights of any mineral lease which has been approved by the Secretary of the Interior or any permit heretofore issued by direction of the Secretary of the Interior to negotiate with said Indians for a mineral lease; but any person or company having so obtained such approved mineral lease or such permit to negotiate with said Indians for a mineral lease on said reservation, pending such time and up to thirty days before said lands are restored to the public domain as aforesaid, shall have in lieu of such lease or permit the preferential right to locate under the mining laws not to exceed 640 acres of contiguous mineral land, except the Raven Mining Company, which may in lieu of its lease locate 100 mining claims of the character of mineral mentioned in its lease; and the proceeds of the sale of the lands so restored to the public domain shall be applied, first, to the reimbursement of the United States for any moneys advanced to said Indians to carry into effect the foregoing provisions, and the remainder, under the direction of the Secretary of the Interior, shall be used for the benefit of said Indians. And the sum of $70,064.48 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid to the Uintah and White River tribes of Ute Indians, under the direction of the Secretary of the Interior, whenever a majority of the adult male Indians of said tribes shall have consented to the allotment of lands and the restoration of the unallotted lands within said reservation as herein provided.

Said item of $70,064.48 to be paid to the Uintah and White River Utes covers claims which these Indians have made on account of the allotment of lands on the Uintah Reservation to Uncompahgre Indians and from which the Government has received from said Uncompahgre Indians money aggregating $60,064.48; and the remaining $10,000 claimed by the Indians under an act of Congress detaching a small part of the reservation on the east, and under which act the proceeds of the sale of the lands were to be applied for the benefit of the Indians.

On June 19, 1902, about three weeks after the passage of the act from which I have just quoted, joint resolution 31, supplementing and modifying certain provisions of said act, was approved. The particular clauses of this joint resolution bearing on the Uintah Indian Reservation are as follows:

In addition to the allotments in severalty to the Uintah and White River Utes of the Uintah Indian Reservation, in the State of Utah, the Secretary of the Interior shall, before any of said lands are opened to disposition under any public land law, select and set apart for the use in common of the Indians of that reservation such an amount of non-irrigable grazing lands therein, at one or more places, as will subserve the reasonable requirements of said Indians for the grazing of live stock.

All allotments hereafter made to Uncompahgre Indians of lands in said Uintah Indian Reservation shall be confined to agricultural land which can be irrigated, and shall be on the basis of 80 acres to each head of a family and 40 acres to each other Indian, and no more. The grazing selected and set apart as aforesaid in the Uintah Indian Reservation for the use in common of the Indians of that reservation shall be equally open to the use of all Uncompahgre Indians receiving allotments in said reservation of the reduced area here named.

It will be observed that originally provision was made for throwing open to entry this reservation on October 1, 1903. The Indian appropriation bill approved March 3, 1903, provided, however, that the date of the opening be deferred for one year—that is to say, to October 1, 1904—and otherwise modified the provisions of joint resolution 31, already referred to, in the following language:

To enable the Secretary of the Interior to do the necessary surveying and otherwise carry out the purposes of the act of May 27, 1902, making appropriations for the current and contingent expenses of the Indian Department for the fiscal year 1903, and for other purposes, as provides for the allotments of the Indians of the Walker River Reservation, in Nevada, and the Uintah and White River Utes, in Utah, and the joint resolution of June 19, 1902, providing for the allotment of the Indians of Spokane Reservation, in Washington, to be immediately available, $175,000: *Provided, however*, That the Secretary of the Interior shall forthwith send an inspector to obtain the consent of the Uintah and White River Ute Indians to an allotment of their lands, as directed by the act of May 27, 1902, and if their consent as therein provided can not be obtained by June 1, 1903, then the Secretary of the Interior shall cause to be allotted to each of said Uintah and

White River Ute Indians the quantity and character of land named and described in said act: *And provided further*, That the grazing lands to be set apart for the use of the Uintah, White River Utes, and other Indians, as provided by public resolution No. 31, of June 19, 1902, be confined to the lands south of the Strawberry River, on said Uintah Reservation, and shall not exceed 250,000 acres: *And provided further*, That the time for opening the unallotted lands to public entry on said Uintah Reservation, as provided by the act of May 27, 1902, be, and the same is hereby, extended to October 1, 1904.

That in the lands within the former Uncompahgre Indian Reservation, in the State of Utah, containing gilsonite, asphaltum, elaterite, and other like substances, which were reserved from location and entry by provision in the act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the fiscal year ending June 30, 1898, and for other purposes," approved June 7, 1897, all discoveries and locations of any such mineral lands by qualified persons prior to January 1, 1891, not previously discovered and located, who recorded notices of such discoveries and locations prior to January 1, 1891, either in the State of Colorado or in the office of the county recorder of Uintah County, Utah, shall have all the force and effect accorded by law to locations of mining claims upon the public domain. All such locations may hereafter be perfected, and patents shall be issued therefor upon compliance with the requirements of the mineral-land laws: *Provided*, That the owners of such locations shall relocate their respective claims and record the same in the office of the county recorder of Uintah County, Utah, within ninety days after the passage of this act. All locations of any such mineral lands made or recorded on or subsequent to January 1, 1891, are hereby declared to be null and void; and the remainder of the lands heretofore reserved as aforesaid because of the mineral substances contained in them, in so far as the same may be within even-numbered sections, shall be sold and disposed of in tracts not exceeding 40 acres, or a quarter of a quarter of a section, in such manner and upon such terms and with such restrictions as may be prescribed in a proclamation of the President of the United States issued for that purpose not less than one hundred and twenty days after the passage of this act, and not less than ninety days before the time of sale or disposal, and the balance of said lands and also all the mineral therein are hereby specifically reserved for future action of Congress.

On February 6, 1904, the honorable Secretary of the Interior, in a communication addressed to the chairman of the House Committee on Indian Affairs, requested that the time for opening the reservation be again extended, this time to October 1, 1905, which request was based on a letter from the honorable Commissioner of the General Land Office to the effect that the necessary surveys of the reservation could not be completed, and the required allotments made by the date previously fixed. The House acceded to his request by incorporating such a provision in the Indian appropriation bill; the Senate however, amended this provision by fixing March 10 as the date for the opening. This amendment finally carried. The particular clause bearing on this subject is as follows:

That the time for opening the unallotted lands to public entry on the Uintah Reservation in Utah, as provided by the acts of May 27, 1902, and March 3, 1903, be, and the same is hereby, extended to March 10, 1905, and $5,000 is hereby appropriated to enable the Secretary of the Interior to do the necessary surveying, and otherwise carry out the purposes of so much of the act of May 27, 1902, making appropriation for the current and contingent expenses of the Indian Department for the fiscal year 1903, and for other purposes, as provides for the allotment of the Uintah and White River Utes in Utah.

Now, in contemplation of these several acts expressing the well-defined intention of Congress to secure a speedy opening of this reservation, I am constrained to regard the dilatory action of the Department of the Interior as evincing an utter lack of good faith and due diligence in carrying out the law. We are now confronted with another request for a further extension of time, this time to October 1, 1905.

I, for one, desire to protest vigorously here and now, against this further delay and, as a basis for my protest will state that so great an extension of time as has been asked for, does not seem to be at all necessary. I lately addressed the honorable Commissioner of the General Land Office requesting information as to the present status of the surveys now being made of the lands in the reservation and received in reply the letter I will now read:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 14, 1905.

Hon. JOSEPH HOWELL,
House of Representatives.

SIR: I have your letter of the 12th instant inquiring as to the progress made with the surveys within the Uintah Indian Reservation. You state that you understand that the "surveys which are now all completed will be accepted and approved by the Department," and you also understand that "until the surveys are accepted, the allotments to the Indians as provided for in the act of May 27, 1902, opening the reservation to entry, can not be undertaken."

In reply I have the honor to state that the field work of said surveys has been executed and the plats and field notes thereof are now before this office for consideration, the last of the surveys having been received on the 6th instant. The force of office examiners is now engaged upon the returns and comparing them with the inspectors' reports. Probably the entire eighteen contracts will have been considered by the first of next month, and whether action on all these surveys will be favorable or not I am unable at present to state. The work is being pushed as rapidly as the force at my disposal will permit.

I am informed that some allotments have already been made in the field based on the old surveys (about twenty-five townships) but that further allotments must necessarily await the acceptance of the surveys by this office, and upon informal consultation at the Indian Office I am advised that it is essential that the allotments to the Indians should be made in the field, which would seem to be impracticable before next summer.

Very respectfully, W. A. RICHARDS, *Commissioner.*

From this letter it is apparent that there is no necessity for such an extension as has been proposed; it is reasonable to assume that the surveys, having now been completed, will have been approved and accepted within a month, or at least before March 10, the date last fixed by law for the restoration of the unallotted lands to the public domain. It is further shown that partial allotments to the Indians have already been made, and why it should require so much additional time to complete them is not clear. The character of these lands is not unknown; a thorough investigation of them was made by Mr. Cyrus C. Babb, under the direction of Mr. F. H. Newell, chief hydrographer of the Geological Survey, as long ago as 1899, and the results of his investigation communicated to the Department of the Interior and to the House.

It is entirely reasonable to suppose that the locations of the best lands—those which should be allotted to the Indians—are already known and decided on; from which it would follow that the remaining allotments could be completed early in the spring. The climatic conditions there are not so rigorous that the work of allotment need be delayed until the summer time.

When the question was up before us during the last session of Congress, the then Commissioner of Indian Affairs declared that, when the surveys were completed and everything in readiness for making allotments, thirty days would suffice for completing this work.

The gentleman from New York [Mr. SHERMAN] stated here that, as he understood it, I had assented to the proposition to authorize the President, at his discretion, to designate the time and prescribe the rules and regulations under which the unallotted lands of the reservation might be entered and settled upon.

I fear he misunderstood me to a certain extent. My idea was rather to leave the law as it now stands—that is to say, that provision of the law designating the 10th of March, 1905, as the date of the opening—and then for us now to authorize the President, in whose wisdom and discretion I have complete confidence, to prescribe such rules and regulations for entry and settlement of land as in his judgment would seem most proper, and also to fix a time when the same might be entered upon. The amendment which I have offered provides that four months shall elapse from the date (March 10) already fixed by law for the opening, until settlers are permitted to make entries, and authorizes the President to prescribe the manner thereof. This additional four months' extension of time would be ample, in my judgment, to permit of the completion of the work of allotment, as it also would give the President time to draft the proper rules and regulations to be followed.

The provisions of the bill now under discussion, however, indicate on the part of Congress a sanction and acceptance of the dilatoriness and seeming negligence on the part of those charged with the carrying out of past enactments. I fear that our favorable action on the bill in its present form will be construed as an approval and warrant for still further delays. Summing up what I have just said, I would favor leaving the date of the opening March 10, and giving the President discretion to defer the actual opening until such time as seems necessary, rather than to extend the time to October 1, "unless," in the words of Mr. SHERMAN'S amendment just offered, "the President shall determine that the same may be opened at an earlier date."

The interest and welfare of the Indians should be carefully considered and jealously guarded; they are the wards of the Government, and justice and humanity demand for them fair and honorable treatment. Were it not for these considerations and the hope of securing the amendment I have offered I would insist on the point of order raised.

The portion of the bill we are now discussing contains, in addition to a considerable extension of time, important and necessary provisions authorizing the President to prescribe rules and regulations for the entry and settlement of these lands. Without some orderly method of determining priority of right to locate lands there will result, in all probability, contention and disorder and perhaps violence in the rush and scramble to get first choice. This legislation is therefore in the highest degree necessary, and in view of the amendment proposed by the gentleman from New York I have withdrawn the point of order made, and have offered my amendment, already read, as a substitute therefor.

I have been compelled, with much reluctance and regret, to recognize the necessity for an extension of time. Personally, though, I have felt that sixty days additional would be ample; but, not desiring to set up my judgment as superior to that of

the Secretary of the Interior—who, while this same matter was under discussion last winter, advised the gentleman from New York, the chairman of the Indian Committee, that the allotments to the Indians could be made in from three to four months' time—accordingly I have so framed my amendment as to fix the date for actual settlement and entry at four months from the date now fixed, or July 10, 1905.

I repeat, I greatly deplore the necessity for any extension of time at all, because thereby is involved the loss of practically one year to the settlers and home makers. If entry could be made immediately after March 10, there would be sufficient of the spring remaining to get crops in. It will be apparent that a very slight delay only will render this impossible. Right here I wish to read a letter, a sample of many similar ones sent to me, which I have just received from a gentleman residing in the neighborhood of the reservation, which shows very graphically the seriousness of delay at all:

VERNAL, UTAH, *January 13, 1905.*

Hon. JOSEPH HOWELL, *Washington, D. C.*

DEAR SIR: I see by the Deseret News that you are trying to have the opening of the reservation postponed until the middle of May, and I thought I would write and ask if you realized the situation here—that there are hundreds of people here waiting for the opening, and if they are allowed to go on the reservation on the 10th day of March, they can get their land and take out ditches and raise a crop sufficient for themselves; whereas if it is put off until the middle of May they will be unable to do anything in this line until next year. And they are a class of people who will greatly suffer and will have to seek employment elsewhere if they are prevented from raising a crop this year.

Yours, truly, L. JOHNSON.

But it may be contended by some that inasmuch as a certain delay is inevitable and that the delay involving as it does the loss of one season's crop and effort, it would matter very little if the opening shall be deferred to October 1, 1905, as advocated by some; or, in other words, it would be a matter of small moment whether July 10 or October 1 should be fixed as the time. Replying to this imaginary contention, I might say that if perchance the President exercises the discretion allowed him and should not declare the reservation open until October 1, the date fixed by the bill, it would then be as impossible for intending settlers to do the pioneer work of subduing the soil, getting out canals and ditches, and planting their fall crops, as it is now impossible, because of the rigors of winter, to proceed with the work of allotment to the Indians. If, on the other hand, my amendment shall carry, intending settlers can enter upon the land in midsummer, homes can be built, the land cleared, canals constructed, fall plowing and planting accomplished, and an excellent start thus made toward future prosperity. The proposition to open these lands just on the threshold of winter is preposterous and ill-conceived; it can be justified only from the standpoint of the speculator and land grabber. It is decidedly adverse to the home seeker and home builder.

In this connection there is another matter of great importance and one which should receive the earnest attention of Congress. In the pending bill these lands, when restored to the public domain, are subject to entry under the general land laws of the United States, coupled with such rules and regulations as the President may prescribe. In my humble judgment there should be some provision such as is embodied in my amendment, limiting the lands in the reservation to entry under the homestead, town-site, and mining laws alone for one year from the date of the opening.

With the full development of the resources of this portion of the State of Utah will come also a capacity for supporting a numerous and thrifty population. Congress should see to it that until such time as those lands easy of access, reclamation, and irrigation are settled by actual home makers the provisions of the homestead law alone shall prevail. This policy is in accord with the dominant sentiment of the time, viz, that the public lands shall be reserved for actual homes for the people.

It may be found necessary later on for the future development of that section of the State to permit the lands to be acquired under the other land laws, but one year at least should elapse to give actual homesteaders a reasonable time for preferential entry before the other laws apply.

Under the provisions of the act of May 27, 1902, certain mining companies were given special rights and privileges. At the time this law was enacted it was thought, no doubt, that the companies securing these valuable concessions would on October 1, 1903, the original date for opening the reservation, be compelled to make a location of the mineral lands granted them. Indignation has been general and widespread that these private mining companies should have been given such valuable concessions and advantages over others, but it is only fair to assume that if all the circumstances were known leading up to the granting of these concessions and privileges the public might be disposed to a more charitable view of the matter. Certainly, though, it could not have been in the mind of Congress that these companies, whose supposed rights were so carefully safeguarded, would, after October 1, 1903, be permitted to continue to profit by successive postponements. The facts as they appear with reference to these favored companies are not of a character to soothe one's feelings. Instead of making their locations by October 1, 1903, to which time they were originally limited under concessions granted them, they have continued from that time to the present (and will no doubt still continue) to prospect the reservation for the valuable minerals known to exist there and to exploit it to their own advantage, while the dear public are strictly excluded and not permitted to interfere.

Every delay in throwing open the reservation to entry and settlement is directly in the interest of these favored concessionaires. They have, without doubt, not only long since determined on the locations most favorable to them, which they are entitled to make, but also as to other locations of minerals, which will give them an immense advantage over other prospectors when the opening actually occurs by enabling them to at once set up claims on prospects they have had ample time to discover.

It appears from data on file in the Interior Department that one of the concessionaires, the Raven Mining Company, has paid no royalty, as required under the terms of its lease, since December 31, 1902, and refuses to recognize any liability for such royalty since October 1, 1903. This corporation has grown particularly arrogant in its claims and appears to flourish in its mercenary designs. The forfeiture clause of the lease made to this company reads as follows:

XIV. In the event of any omission, neglect, or failure of the party of the second part to faithfully observe and perform any of its obligations arising upon and under the provisions of this lease, the Secretary of the Interior may, without prejudice to any other lawful remedy or remedies, treat the same as a sufficient cause for the forfeiture, abrogation, or termination of this lease by him unless within sixty days after notice thereof from the Secretary of the Interior the party of the second part shall fully correct such omission, neglect, or failure and make good any loss or injury occasioned thereby, and if after such notice and within the time named the party of the second part shall not fully correct such omission, neglect, or failure and make good any loss or injury occasioned thereby, or if thereafter such omission, neglect, or failure of the party of the second part shall be repeated, then at any time within sixty days thereafter the Secretary of the Interior may, at his option, declare this lease forfeited, abrogated, and terminated; and if this lease shall be so forfeited, abrogated, or terminated then and in that case the party of the second part shall wholly vacate the leased premises within thirty days of notice thereof, and upon failure of the party of the second part to vacate said premises the Secretary of the Interior shall have the right, on behalf of the Indians, to reenter the same and take possession thereof, using such force as may be deemed necessary to dispossess and remove therefrom the said party of the second part; and it is agreed and understood that any property of said party of the second part located on said premises at the time of such forfeiture, abrogation, or termination of this lease may be removed therefrom by the party of the second part within such reasonable time as may be fixed by the Secretary of the Interior, not to exceed six months from the forfeiture, abrogation, or termination of the lease, and any property of the party of the second part remaining upon the said premises after the expiration of the time so fixed for its removal shall thereupon become the property of said party of the first part and may be treated as such by the Secretary of the Interior: *Provided, however,* That the party of the second part shall have six months in which to remove its building, machinery, and other property from said lands, without hindrance by the party of the first part, if the party of the second part has performed all of the covenants and conditions imposed upon it by this lease.

Notwithstanding the plain terms of this lease, the said company takes on a defiant attitude toward the Government and, for reasons not discernible, no effective steps are taken to enforce the terms of the lease. The public residing in the neighborhood realize that these mining companies under the wide latitude allowed them have enjoyed exclusively the favored privilege of exploring and prospecting for minerals throughout the reservation; and, appreciating to the full extent such a discrimination against them and in favor of the companies, arouses within them a feeling of righteous indignation. It is manifestly a rank injustice and ought never to have been permitted; but regrets are now unavailing, and the proper thing is to stop it at the earliest possible moment.

In conclusion, I want to say that it will be for the best interest of the Indians to have the reservation speedily opened and settled. It is a locality rich in varied resources and possessing a fine climate. A great variety of minerals are known to exist there and a goodly portion of the land is well adapted to agriculture and fruit raising. With the opening will come a healthy development and there will spring up many thrifty communities, both mining and agriculture, such as my State is famed for. The Indians will thus be brought into closer touch with up-to-date industrial methods and will be stimulated thereby to habits of thrift and industry; and within a few years this will appear as one of the favored spots of the earth.

Mr. SHERMAN. Mr. Chairman, the gentleman from Utah naturally and properly looks upon this subject from the point of view of his constituents, the white people of Utah. I am looking upon it from the view point of the Indian's interests. Now, the Secretary, under the date of December 10, writes me—I will not read much of the letter—"It is quite certain that very little of this work"—that is, of the allotment work—"can be done in any event during the winter season, and as the said act requires that allotment shall be made before the lands are thrown open it is not believed to be possible to comply with such requirement in time to open the unallotted land to public entry on March 10, 1905." Now, because of that we ask for an extension until October. He proceeds in the letter to expressly ask that the act be amended so as to provide for the opening in October rather than in March.

Mr. HOGG. Mr. Chairman, may I ask the gentleman a question?

Mr. SHERMAN. Certainly.

Mr. HOGG. I would like to know if these surveys have been passed upon by the Government and approved?

Mr. SHERMAN. I understand not.

Mr. HOGG. I should like to know further, Mr. Chairman, if the Department has given any information as to the number of allotments already made to the Indians?

Mr. SHERMAN. They have not.

Mr. HOGG. Do you know whether this is being done?

Mr. SHERMAN. It is, as I understand it; I understand the work is now progressing.

Mr. HOGG. I had understood, Mr. Chairman, from the Commissioner that the surveys had been completed for some considerable time.

Mr. SHERMAN. This letter of December 10 states they are not; that is my information on the subject.

Mr. HOWELL of Utah. Mr. Chairman, with the permission of the gentleman, I would like just to read a part of a letter from the honorable Commissioner of the General Land Office:

In reply I have the honor to state that the field work of the said surveys has been executed, and the plats and field notes thereof are now before this office for consideration, the last of the surveys having been received on the 6th instant. The force of office examiners is now engaged upon the returns and comparing them with the inspectors' reports. Probably the entire eighteen contracts will have been considered by the 1st of next month, but whether action on all of these surveys will be favorable or not I am unable at present to state, but the work is being pushed as rapidly as the force at my disposal will permit.

Mr. SHERMAN. Now, Mr. Chairman, that letter itself, it seems to me, discloses that we ought not to attempt to open this reservation on the date of March 10. The letter itself says while the field work is completed, the notes only were received on the 6th day of January. None of the surveys are complete, and the suggestion of the Commissioner is that they will not be completed until the 1st of February next.

Mr. HOWELL of Utah. Will the gentleman from New York yield for a moment?

Mr. SHERMAN. Certainly.

Mr. HOWELL of Utah. Does the gentleman from New York understand this amendment does not propose to open these lands for settlement until the 10th day of July, nearly five months from the estimated time of the completion of the surveys?

Mr. SHERMAN. The amendment undertakes to do this: To restore this to the public domain on the 10th of March, and then on the 10th of March to require the President to issue a proclamation for the opening of the reservation four months thereafter.

Now, Mr. Chairman, the gentleman from Utah [Mr. HOWELL] was thoughtful and considerate enough to present his amendment to me, I think the night before last, and I sent it down at once to the Department for a report thereon and for an opinion in reference thereto.

The CHAIRMAN. The time of the gentleman from New York [Mr. SHERMAN] has expired.

Mr. SHERMAN. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for five minutes.

The CHAIRMAN. The gentleman from New York [Mr. SHERMAN] asks unanimous consent that he may be permitted to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SHERMAN. Under date of yesterday, the officer having the fullest knowledge of the entire situation and of the entire condition, the official superior to the Commissioner of the General Land Office, the Secretary of the Interior, writes me acknowledging the receipt of the amendment of the gentleman from Utah [Mr. HOWELL] and distinctly states that he is opposed to the amendment as not for the best interests of the Indians and asks that the provision as printed in the bill remain undisturbed.

And those are the interests that the members of the committee are helping to protect.

Mr. HOWELL of Utah. Mr. Chairman, I would like to ask the gentleman from New York [Mr. SHERMAN] a question.

The CHAIRMAN. Does the gentleman from New York [Mr. SHERMAN] yield to the gentleman from Utah [Mr. HOWELL]?

Mr. SHERMAN. Certainly.

Mr. HOWELL of Utah. I would like to ask the chairman of the Committee on Indian Affairs what the reasons are that occur to his mind that would injure the Indians to have these lands, for the first year, at least, preserved for actual home builders rather than to be entered under the present land laws and the timber and stone act, etc.? I see no reason why it should injure the Indians.

Mr. SHERMAN. I do not see any special reason myself, so far as that is concerned. But permit me to finish the reading of the letter.

Now, that is the recommendation of the Department made yesterday with the fullest and latest information at hand. I therefore trust——

Mr. STEPHENS of Texas. Mr. Chairman, I desire to ask the gentleman from New York [Mr. SHERMAN] this question.

The CHAIRMAN. Does the gentleman from New York [Mr. SHERMAN] yield to the gentleman from Texas [Mr. STEPHENS]?

Mr. SHERMAN. Certainly.

Mr. STEPHENS of Texas. I desire to ask whether these lands are thrown open under the existing law? What provision is made under the existing law if they are restored to the public domain and are to be opened under the general land laws of the nation?

Mr. SHERMAN. This amendment under consideration proposes to open them under a proclamation by the President, which shall lay down rules and regulations for their opening, the idea being to have such rules and regulations as were prescribed, for instance, in the Rosebud Reservation opening and have been used as the rules and regulations in the opening up of the Indian lands for the last two or three years, and which have proven to be not only beneficial to the Indians, but of advantage to the would-be settlers.

Mr. STEPHENS of Texas. And that is the object of the amendment?

Mr. SHERMAN. Yes, sir.

Mr. STEPHENS of Texas. That has been adopted already; that is, the amendment providing that the President shall have the right to adopt these rules and regulations.

Mr. SHERMAN. The section has been passed in the bill, and to that section the gentleman from Utah [Mr. HOWELL] offers this amendment.

Mr. STEPHENS of Texas. Would that be contradicting the amendment already offered providing that the President shall have that right?

Mr. SHERMAN. The gentleman from Utah [Mr. HOWELL] offers that practically as a substitute for the provision that is carried in the bill, and possibly it might have been subject to a point of order had not the whole been subject to the point of order. Certainly, the gentleman from Utah [Mr. HOWELL] having withdrawn his point of order to the provision in the bill which it was conceded was obnoxious to the rule, I could not with grace raise a point of order to his proposition.

Mr. Chairman, I will not take time to read, but will insert in the RECORD some correspondence on this subject.

DEPARTMENT OF THE INTERIOR,
Washington, December 10, 1904.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

SIR: I have the honor to transmit herewith, for the information of your committee, a copy of a communication addressed by me to the President, under date of November 25, 1904, giving a brief statement regarding the lands of the Uintah Indian Reservation, in Utah, and the present status of the same.

As you will observe, the Department, on February 6, 1904, in view of a report from the Commissioner of the General Land Office as to the probable time required to complete the surveys on this reservation, requested Congress to further extend the time for the opening of the same to public settlement for one year from October 1, 1904. The time, however, was extended by the Congress only until March 10, 1905, as per provision in the Indian appropriation act approved April 21, 1904, and $5,000 was appropriated to enable the Secretary of the Interior to have completed the surveying and allotting as required by the act of May 27, 1902.

The field work on these surveys is reported to be complete, but the office work on the field notes, plats, etc., has not been finished, and none of the surveys have yet been accepted by the General Land Office.

Authority was granted on November 16, 1904, for the acting agent of the Uintah Agency to employ a surveyor and necessary assistants, so as to begin the work of allotting the lands to the Indians, in manner as provided in the act of May 27, 1902, as soon as the surveys shall have

been accepted by the General Land Office; but it is quite certain that very little of this work can be done in any event during the winter season, and as the said act requires that the allotments shall be made before the lands are thrown open, it is not believed to be possible to comply with such requirement in time to open the unallotted lands to public entry on March 10, 1905.

In view of the foregoing, I have the honor to submit the matter for the further consideration of your committee, with the request that the time for opening these lands be extended to October 1, 1905, the date suggested in Department letter of February 6, 1904, above referred to.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, November 25, 1904.

The PRESIDENT:

I have the honor to be in receipt from Hon. William Loeb, jr., by your direction, of a request for my views on the subject-matter set out in a communication from Mr. J. H. Ramey, president of the chamber of commerce of Grand Junction, Colo.

Mr. Ramey states that he writes at the urgent request of the board of directors of the aforesaid organization, whose object is the advancement of commercial and industrial interests of western Colorado and eastern Utah, in regard to the opening of the Uintah Indian Reservation, in the latter section; that it is the consensus of opinion of their people that it is not for the best interests of the whole people that the said reservation should be opened in the manner now proposed, but that, on the contrary, it should be opened somewhat in the manner in which the Rosebud Reservation (in South Dakota) was recently opened—that is, by some equitable plan for drawing lands after registration—and he submits for consideration the question of amendment or change of the present law, which contemplates the opening of the said reservation by simply restoring the surplus lands to the public domain.

In response to your request for my views, I beg to give briefly for your information the following relating to recent legislation upon the said lands and their present status:

The Indian appropriation act approved May 27, 1902, provided for the allotment to the Indians of the reservation of agricultural lands, which can be irrigated, as follows: To each head of a family 80 acres, and to each other member of said tribes (Uintah and White River Utes) 40 acres. These allotments were to be made prior to October 1, 1903, on which date all the unallotted lands within the reservation should be restored to the public domain. The act provided for the protection of the rights of any mineral lease which had been theretofore approved by the Secretary of the Interior, or any permit theretofore issued by direction of the Secretary to negotiate with said Indians for a mineral lease. The act granted the right to any person or company who might have obtained such mineral lease or permit to negotiate, pending such time and up to thirty days before said lands were restored to the public domain, to locate, in lieu of such lease or permit, not to exceed 640 acres of contiguous lands, except the Raven Mining Company, which was authorized to locate 100 mining claims in lieu of its lease.

The Indian appropriation act approved March 3, 1903, extended the time for opening the unallotted lands on said reservation, as provided by the act of May 27, 1902, to October 1, 1904. This was because of the showing made by the Department as to the impossibility of selecting, surveying, and locating the Indians upon irrigable lands within the time limit fixed by the act of 1902.

The work of surveying and marking the irrigable lands needed for allotments to the Indians was begun under the direction of the General Land Office and was pushed as vigorously as the available force and weather conditions would permit; but on February 4, 1904, the Commissioner of the General Land Office, in response to an inquiry of the Department as to the probable time necessary to complete said surveys, reported that "owing to the necessary preliminaries, such as the proposals, awarding and letting of contracts, and preparation of instructions, the surveyors were not ready to take the field until in August last, leaving but a short season for their operations in the elevated region embracing the reservation. I am informally advised that none of the contracting surveyors have completed their field work, and I am of the opinion that the work in the field, the office work on the plats and field notes by the surveyor-general's force, the field inspection, and subsequent office examination here will require the whole of the next surveying season, and that the date for said opening should be postponed at least another year."

In view of this report, Congress was requested, by letter of February 6, 1904, addressed to Senate and House Committees on Indian Affairs, to further extend the date for the opening for one year from October 1, 1904.

The Indian appropriation act approved April 21, 1904, extended the time for the opening of the lands to March 10, 1905, and appropriated $5,000 to enable the Secretary of the Interior to have the surveying and allotting (as provided in the act of May 27, 1902) completed.

The surveys have been completed, but from a report by the Indian Office of November 7, 1904, it appears that none of said surveys have been yet accepted.

On November 16, 1904, authority was granted for Captain Hall, acting agent at Uintah, to employ a surveyor and necessary assistants in order to begin the work of allotting the lands to the Indians, as provided by law, but this authority was granted with the condition that none of these persons be employed and no allotment work be done until he is formally notified of the acceptance by the General Land Office of the surveys.

Regarding the Raven Mining Company, attention may be invited to the correspondence between the Department and the company respecting the company's liability for payment of royalties under its mineral lease on the Uintah Reservation. (This lease was for prospecting for and mining elaterite, asphaltum, woertzelite, gilonsite, and mineral wax, and covered a period of ten years from November 26, 1898, date of approval, and a large tract of land south of the Strawberry River and west of the first guide meridian, within which area 23 mining locations were subsequently approved by the Department.) No royalty has been paid by the company for products mined after December 31, 1902, and the company claims that it is not liable for royalties after September 30, 1903, on the ground that the act of May 27, 1902, had fixed October 1, 1903, as the date for opening the reservation. An opinion was rendered by the Assistant Attorney-General for this Department January 16, 1904, wherein it was held that the company was liable for the payment of such royalties after said date and until the reservation is opened to settlement, thus confirming the position of the Department as expressed in its letter of August 3, 1903, to the company on the subject.

By Department letter of November 5, 1904, the position theretofore taken as to the Raven Mining Company was adhered to, in the following words:

"Upon further careful consideration of the whole matter, and in answer to the questions above noted, you are advised that, in the opinion of the Department, the Raven Mining Company is liable for payment of royalties after September 30, 1903, as heretofore held in opinion of the Assistant Attorney-General for this Department of January 16, 1904; that notice of increase in rate of royalty does not affect the product mined prior to the expiration of sixty days from such notice, and that formal demand should be made at once upon the company for payment of the amount of royalty found to be due upon all ore mined after April 29, 1904, at the rate of $4.50 per ton, the sixty days' notice provided for having been served on the company February 29, 1904.

"If payment of such royalties is then refused, suit will be brought against the company and the sureties on its bond to enforce payment of the same."

The above letter was amended by Department letter of November 6, 1904, directing the Commissioner of Indian Affairs to also make demand upon the company for royalty due and unpaid from date of last settlement (believed to be December 31, 1902) up to April 29, 1904, at the rate of $3.50 per ton.

In returning the communication of Mr. Ramey, which is herewith transmitted, I have to say that the views expressed therein meet my approval as to the manner of the opening of the reservation. If the lands are simply restored to the public domain, as contemplated by the present law, we will have a repetition of the disgraceful acts and scenes that have occurred at other openings in recent years, whereas if the opening be by registration and drawing, as was done at Rosebud, these may be largely avoided. But Congressional action to this end will be needed, and the same is recommended to your favorable notice.

In the matter of the time fixed by law for the restoration of the surplus lands of the reservation to the public domain (March 10, 1905), I have to state that, in my opinion, it will be impracticable to do so because of the condition of the surveys of the reservation, which, as stated, have not yet been accepted by the Commissioner of the General Land Office, and because it now seems to be utterly impossible to make by that time the allotments to the Indians of the reservation, as required by the law.

Then there is to be considered the attitude of the Raven Mining Company in its defiance of the Department in its refusal to pay royalties due and claimed under its lease, necessitating suit at law to determine its liability, which is calculated to embarrass the Department in administering the affairs of the reservation. Further legislation by Congress may be required to compel the company to carry out its contracts with the Indians and the Government before the reservation is opened. This matter will be given full and early consideration.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, January 4, 1905.

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

SIR: Referring to my letter to your committee under date of the 10th ultimo requesting, for reasons therein stated, that the time for opening the surplus lands of the Uintah Indian Reservation, in Utah, to public entry be extended to October 1, 1905, I have the honor to transmit herewith, for your consideration in connection therewith, a copy of a communication, dated the 24th ultimo, from the Acting Commissioner of Indian Affairs, forwarding a letter from Capt. C. G. Hall, acting agent of the Uintah and Ouray Agency, Utah, of the 14th ultimo, giving further reasons why the opening of the said reservation should be postponed.

Very respectfully, E. A. HITCHCOCK, *Secretary.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 24, 1904.

The honorable the SECRETARY OF THE INTERIOR.

SIR: Referring to your communication dated November 13, 1904, in which you advised this office that the Department requested Congress under date of the 10th instant to further extend the time for the opening of the lands of the Uintah Reservation, Utah, to public entry until October 1, 1905, I have the honor to transmit herewith a copy, in duplicate, of a communication from Capt. C. G. Hall, acting agent, dated December 14, 1904, giving reasons why the opening of the reservation should be postponed. The copies are transmitted for such disposition as you may be pleased to make.

Very respectfully,

A. C. TONNER, *Acting Commissioner.*

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
UINTAH AND OURAY AGENCY,
White Rocks, Utah, December 14, 1904.

COMMISSIONER INDIAN AFFAIRS,
Washington, D. C.

SIR: I have the honor to call your attention to the existing condition of affairs on the reservation so far as the Indians will be affected by the existing law to throw the lands open for settlement in March next.

I have hesitated to make any recommendation in regard thereto, hoping that the conditions would so turn out that the opening could be affected without prejudice to the interest of the Indians, and to this end I have kept the date of March 10, 1905, constantly in view as the time set for the opening, so that the Indians might be ready by that time.

However, I am forced to make the following statements which I believe to be of importance relative to their welfare in the future, and feel it important that your Office should be familiar with the facts beforehand, in order that all due consideration might be placed upon the question before its ultimate disposition:

First. The date set for the opening, March 10, 1905, is at a time when the weather on the reservation is liable to be the most extreme. If an opening is affected at that date all Indians who now occupy lands which would not be allotted before the date of the opening would be required to vacate their homes and occupy their allotments in order to give place to the incoming home seekers, and this would

work a very great hardship on many of the Indians, requiring them to change their homes during severe weather, and to occupy lands which have no improvements nor facilities for protection against the inclement weather. For this reason alone I believe the date as above stated for the opening would be most unsatisfactory.

Second. Owing to the nonreceipt of the plats of the recent survey of the reservation, the work of allotting lands has necessarily been deferred until at present the weather is becoming extremely rigid and will in a few weeks be so cold as to render field work almost impossible. This extreme weather may continue until after the date set for the opening, with very few opportunities for any field work to be carried on. Some few allotments might be made with little field work, but the vast majority would require the actual running of lines. Owing to the peculiar class of soil to be found, many pieces of ground, while appearing to be excellent land from an agricultural standpoint, will, upon examination, be found to have immediately underlying the surface covering of soil a strata of conglomerate which is absolutely impossible to cultivate. To make an allotment on such land as this would be, in my opinion, worse than no allotment at all.

I believe that if the opening were deferred until some time next fall the work of alloting could be promptly and satisfactorily done before that time, giving the Indians an opportunity to occupy their allotments and construct some permanent shelter for the winter months, at the same time giving them an opportunity to build fences and arrange their allotment, or a portion thereof, for cultivation during the ensuing season.

I submit these facts for your consideration, with the endeavor to make clear the appearance of the conditions as they seem to me. It might be possible that from other considerations it would be best to allow the law to remain as it now stands, but I can not see the advantage of it from my standpoint.

Very respectfully,

C. G. HALL,
Captain, Fifth Cavalry, Acting U. S. Indian Agent.

Mr. STEPHENS of Texas. I am not disposed to raise any point of order, but I would like to say that it might not be the best thing to be done possibly.

Mr. HOWELL of Utah. The chairman of the Committee on Indian Affairs is well aware that the act of 1902 provides that homesteaders may acquire land which is in the public domain. By that act it is provided that they shall pay a dollar and twenty-five cents per acre for the public domain.

Mr. SHERMAN. The gentleman says it is so, and I have no doubt he is correct.

Mr. HOWELL of Utah. Therefore I can not understand why there should be any loss to the Indians by this.

Mr. SHERMAN. The provision as it is in the bill was drawn after careful consideration by the committee, and agreed to in the committee without division. I think this provison which is suggested or proposed by the substitute should not prevail.

Mr. HOGG. I would like to suggest to the gentleman from New York, while on the subject of fixing September 1 instead of October 1, that there are very great reasons why it ought to be a little earlier. The early snows make it almost impossible for the people to make these settlements unless the time is made a little bit earlier. I would be very willing to support an amendment of that kind.

Mr. SHERMAN. Well, I do not object to having it modified, and yet in my judgment, Mr. Chairman, the land will in fact be opened prior to September under the terms of this bill. I would not strenuously oppose that modification of thirty days in the date, fixing the date at September 1 rather than October 1.

Mr. HOGG. Do you agree to the amendment?

Mr. SHERMAN. I do not oppose it.

Mr. HOGG. Then I move, on line 17, page 28, that the word "October" be stricken out and "September" inserted in lieu thereof.

The Clerk read as follows:

Page 28, line 17, strike out "October" and insert "September;" so as to read "September 1, 1905."

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question is on agreeing to the substitute proposed by the gentleman from Utah.

The question was taken, and the substitute was rejected.

Mr. GILBERT. Mr. Chairman, I offer the amendment which I send to the desk.

The Clerk read as follows:

Insert in lieu of the paragraph:

"That the homestead settlers on the lands which were heretofore a part of the Rosebud Indian Reservation within the limits of Gregory County, S. Dak., opened under an act entitled 'An act to ratify and amend an agreement with the Sioux tribe of Indians of the Rosebud Reservation, in South Dakota, and making appropriation and provision to carry the same into effect,' approved April 23, 1904, be, and they are hereby, granted an extension of time in which to establish their residence upon the lands so opened and filed upon until the 1st day of May, A. D. 1905: *Provided, however,* That this act shall in no manner affect the regularity or validity of such filings, or any of them, so made by the said settlers on the lands aforesaid; and it is only intended hereby to extend the time for the establishment of such residence as herein provided, and the provisions of said act are in no other manner to be affected or modified."

Mr. SHERMAN. Mr. Chairman, I raise the point of order against the amendment. It changes existing law.

The CHAIRMAN. The gentleman from New York makes the point of order against the amendment. The Chair will hear the gentleman from Kentucky.

Mr. GILBERT. Well, Mr. Chairman, I expect the point of order is well taken, and I do not want to discuss that; but I want to put myself on record as being anxious to extend the time. The six months' limit expires in dead winter, and the amendment can serve no possible purpose except to release these homesteaders from going up there and taking possession in midwinter. It can do no possible harm to anybody or to the public interest to have that time extended until then, and for that purpose the amendment is offered.

The CHAIRMAN. The point of order is sustained.

Mr. FITZGERALD. I offer the following amendment.

The Clerk read as follows:

Insert at the end of the paragraph:

"*Provided,* That nothing herein contained shall be construed to extend beyond the time fixed by law the time within which any person or persons to locate 640 acres of contiguous mineral lands in lieu of rights in mineral leases as provided under the act of May 27, 1902."

Mr. SHERMAN. Mr. Chairman, I raise the point of order, if one lies against that; I do not know that it does.

Mr. FITZGERALD. Under the act of May 27, 1902, certain persons who had mineral leases or claimed to have them under the provision included for mineral leases were given the right to select within the thirty-days limit fixed for the restoration of these lands to the public domain to locate 640 acres of contiguous mineral lands, and to take them in lieu of all rights under their lease. Now, by the extension of the time fixed for the restoration of this reservation to the public domain their time has been extended until within thirty days of March 10, 1905. It seems to me that whatever rights these persons may have had have been amply protected, and they should not be allowed to continue to prospect on that reservation and to secure preferential rights away beyond what it is ever intended they should be given, to the detriment of all other persons desiring to enter on the mineral lands.

Mr. SHERMAN. I am inclined to think the gentleman in that statement is absolutely correct; but I understand that there is litigation pending now, referred to by some gentleman on the floor here, by one of these companies that had a lease under which a royalty was payable, which it has refused to pay, and a suit has been instituted, as I understand, on the part of the Government to force payment of the royalty. Now, has the gentleman considered how such a provision might affect that suit?

Mr. FITZGERALD. No; I will just call the attention of the chairman of the committee to the language of the original act:

That nothing——

Mr. SHERMAN. I remember that language.

Mr. FITZGERALD. That simply compels those who have the right to locate under the law as it exists at present to make their locations within the time now fixed by law and prevents the extension of the time under the provisions of this amendment.

Mr. SHERMAN. I think you are right as far as the extension is concerned. My only thought was whether any such provision as that might in any way affect pending litigation. They are claiming now, as I understand it, one or the other of these companies, or perhaps both, that their rights vested a year or so ago absolutely, and that because they were not put in possession of what they were given under that act of 1902 therefore they were not called upon to pay any royalties.

Mr. FITZGERALD. I do not believe it would affect any litigation, but I will suggest that a clause be put in to that effect. My purpose is to end the time within which——

Mr. SHERMAN. I am in sympathy with the purpose of the amendment, and I withdraw the point of order.

The CHAIRMAN. The point of order is withdrawn. The question is on agreeing to the amendment proposed by the gentleman from New York.

The amendment was agreed to.

Mr. HOWELL of Utah. I offer the following amendment, to be inserted after the word "abridged," in line 8, page 39:

Mr. SHERMAN. To be inserted after the words of the amendment just adopted.

The Clerk read as follows:

Insert, after the amendment just adopted, the following:

"*And further provided,* That for one year immediately following the restoration of said lands to the public domain, said lands shall be subject to entry only under the homestead, town site, and mining laws of the United States."

Mr. SHERMAN. We have already provided in this amendment that they shall be opened under regulations prescribed by the President, under a proclamation in which he can cover everything. I think we ought not to adopt that amendment.

Mr. HOWELL of Utah. It seems to me that the amendment is of great importance, for the reason that it limits the choicest lands on that reservation to entry and location by actual home seekers and home builders, and restricts those who might desire to acquire title to land there under any other of the land laws of the United States at least for one year after the opening of the reservation. In my opinion this right should be reserved to actual homesteaders until the better and choicer lands in the reservation have been occupied and settled upon, and it seems to me, Mr. Chairman, that this amendment is obviously an important one and ought to be adopted. It is in line with the general sentiment of the country that our public lands should be reserved for actual home makers. I therefore hope that the amendment will prevail. It can not possibly work any hardship upon the Indians, because in the act providing for the opening of this reservation it is stipulated that homesteaders shall pay $1.25 per acre for the lands homesteaded.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from Utah.

The question being taken, on a division there were—ayes 10, noes 25.

Accordingly, the amendment was rejected.

The Clerk read as follows:

That in the case entitled "In the matter of enrollment of persons claiming rights in the Cherokee Nation by intermarriage *v.* The United States, Departmental, No. 76," now pending in the Court of Claims, the said court is hereby authorized and empowered to render final judgment in said case, and either party feeling itself aggrieved by said judgment shall have the right of appeal to the Supreme Court of the United States within thirty days from the filing of said judgment in the Court of Claims. And the said Supreme Court of the United States shall advance said case on its calendar for early hearing.

Mr. LACEY. At the end of the word "hearing," in line 19, I want to reserve a point of order to that paragraph.

The CHAIRMAN. The gentleman from Iowa reserves the point of order to the paragraph.

Mr. STEPHENS of Texas. I have an amendment to the paragraph.

Mr. SHERMAN. It is a proposition that was sent up from the Department. They specially asked for it. I do not personally care whether it goes in or not.

Mr. LACEY. I do not make the point of order.

Mr. STEPHENS of Texas. I offer the amendment which I send to the Clerk's desk.

The amendment was read, as follows:

At the end of line 19, page 39, insert:

That the Court of Claims of the United States is hereby directed, in accordance with the provisions of an act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883, to inquire into and report to Congress, for the information of the House, whether any persons claiming citizenship in either the Cherokee, Creek, Choctaw, or Chickasaw nations of Indians in the Indian Territory have been, or are now, deprived of their equitable rights to share in the division and distribution of the lands and funds in either of said nations by or under acts of Congress subsequent to January 1, 1896, or by any rulings of the Department of the Interior or its agents, who were entitled to said participation by reason of their being Indians, by blood or in fact, under the laws and treaties in force prior to January 1, 1896, and for the purpose of determining the questions hereby referred to said court, the court shall consider only such petitions as show that the petitioner is in fact of Indian blood; that he or she was entitled to participate in the distribution of the lands and moneys of either of said nations on January 1, 1896; that his or her failure to secure said property rights was not due to the fault of said petitioner, and that the United States as guardian has not furnished counsel or protected the rights of said petitioner; but the fact that no application for enrollment was made within the statutory period, as provided in any subsequent act of Congress, shall not debar the said petition from consideration in the rendering of said findings, and said court shall be governed as to matters of fact by records of the Commission to the Five Civilized Tribes, the Commissioner of Indian Affairs, the Secretary of the Interior, the United States courts for the Indian Territory, and any and all records relating to the equitable rights of the petitioner, and may, at its discretion, consolidate any or all of the petitions so filed, if, in its opinion, it can by so doing equitably determine and report as to the rights of said claimants under the facts as shown by said records; this reference to be advanced upon the docket of said court and findings made at the earliest practicable date.

Mr. SHERMAN. Mr. Chairman, I raise the point of order against the provision. It is a sweeping legislative proposition. It was before the committee—offered in the committee by the gentleman from Texas [Mr. STEPHENS]—and by the committee voted down.

Mr. STEPHENS of Texas. I will state that this is an entirely different provision.

Mr. SHERMAN. It may not have been in the exact words, but it sought to accomplish the same purpose.

Mr. STEPHENS of Texas. The difference is this. I provided in the one offered before the committee an appeal in the Riddle case, which was defeated by the citizenship court, decided adversely to the claimant, and I desired to appeal that to the Supreme Court of the United States, pointing out that case.

Mr. SHERMAN. I must insist on the point of order, Mr. Chairman.

Mr. STEPHENS of Texas. Will the gentleman withhold it just a moment?

Mr. SHERMAN. I will reserve it if the gentleman wishes to make a statement.

Mr. STEPHENS of Texas. I wish to state that the gentleman from New York is in error with reference to the fact that the committee passed upon this same matter. I will state that in 1896 the Congress of the United States authorized the Dawes Commission, then in the Indian Territory, to complete the rolls of the Five Tribes, with a view of abolishing the tribal relations of that Territory. They entered upon their duties in that year. In 1898 Congress passed what was known as the "Curtis Act," which made further provision relative to the making of these rolls. In 1896, when this bill was passed, the Indians had rolls of their own, and the Dawes Commission adopted these rolls and, in addition, placed other names thereon.

This act provided that the Indians as a tribe and the person seeking to establish his citizenship should each have the right to appeal from the Dawes Commission to the courts of the Indian Territory. Many such appeals were taken both by the tribes and by the individuals seeking to establish citizenship. A great many of these appealed cases, amounting to three or four thousand, resulted in favor of the claimants, and they were thus placed on the rolls and became what is known as the "court-made citizens of the Indian Territory."

In 1902 Congress very unwisely and unjustly, as I think, passed an act providing for a citizenship court in the Indian Territory, composed of three judges, with the power and right to reverse and set aside all these judgments. This citizenship court, as it was called by the act, proceeded to try two special questions submitted to it: First, as to whether or not there had been proper notice given by the courts of the Indian Territory to the two different tribes, the Choctaws and the Chickasaws, and the court held that there was no proper notice given, because notice had not been served on the governors of each tribe. The second question submitted was whether or not on appeal from the Dawes Commission to the courts of the Indian Territory the trial should have been a trial de novo. This question was decided against the court-made citizens, and thus they set aside the judgment in favor of three or four thousand court-made citizens. These citizens were deprived of their vested property rights acquired under the existing laws of Congress.

To show the extent to which this citizenship court went in order to hold that the Indian Territory courts had rendered erroneous opinions, they had to hold that notice should have been given to both the Chickasaw and the Choctaw nations, and therefore held the judgment void. In doing that they also held that the acts of the Dawes Commission in registering these citizens were void, because this Commission had also failed to give separate notices to each tribe.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that I may proceed for five minutes more.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. The citizenship court in December rendered this opinion, holding that both the judgments of Territorial courts and of the Dawes Commission in the matter was void, and set both aside. They gave that opinion some time in December, 1902, and then reversed it in January, without notice to anyone, and rendered an opinion, nunc pro tunc, holding the judgment of the court void. These judgments can be shown to be in existence to-day. They did not dare to set aside the action of the Dawes Commission, but did set aside the judgments of the courts in that Territory by their last, or amended, judgment. I have a case here, under the seal of the courts of that Territory, in point, showing the condition in which they have left Mr. Morgan, the claimant for citizenship, and this is only one of many cases going to make up the grand total of 2,000 or more persons who have been judicially robbed of their birthright.

It is as follows:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muscogee, Ind. T., September 20, 1904.

WILEY B. MORGAN,
Garland, Ind. T.

DEAR SIR: Inclosed herewith you will find a copy of the order of the Commission to the Five Civilized Tribes, dated September 20, 1904, dismissing your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

TAMS BIXBY,
Chairman.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muscogee, Ind. T., September 20, 1904.

In the matter of the application for the enrollment of Wiley B. Morgan as a citizen by intermarriage of the Choctaw Nation.

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "W. B. Morgan *v.* Choctaw Nation" (1896 Choctaw Citizenship Docket, case No. 360), the applicant, Wiley B. Morgan, made original application to said Commission under the provisions of the act of Congress approved June 10, 1896 (29 Stats., 321), for admission to citizenship in the Choctaw Nation, and on December 2, 1896, the said Wiley B. Morgan was by the Commission to the Five Civilized Tribes admitted to citizenship in the Choctaw Nation as a citizen by intermarriage. From this decision of the Commission an appeal was taken by the Choctaw Nation to the United States court for the central district of Indian Territory, which court, in the case entitled "W. B. Morgan *v.* Choctaw Nation" (citizenship case No. 127), affirmed the decision of the Commission admitting Wiley B Morgan as an intermarried citizen of the Choctaw Nation.

It further appears from the records in the possession of the Commission that on December 17, 1902, the Choctaw and Chickasaw citizenship court, created by the provisions of the act of Congress approved July 1, 1902 (32 Stat. L., p. 641), "set aside, annulled, vacated, and held for naught" the aforesaid judgment of the United States court for the central district of the Indian Territory. Said cause has not been appealed or certified to the said Choctaw and Chickasaw citizenship court for a trial de novo within the time prescribed by the provisions of said act of Congress approved July 1, 1902.

In accordance with the opinion of the Acting Attorney-General, dated May 9, 1904 (I. T. D., 3824—1904), and the opinion of the Assistant Attorney-General for the Department of the Interior, dated July 30, 1904 (I. T. D., 5246—1904), the Commission to the Five Civilized Tribes is without authority to take any action of any character looking to the enrollment of Wiley B. Morgan as a citizen by intermarriage of the Choctaw Nation, and it is therefore hereby ordered that the application of Wiley B. Morgan for enrollment as a citizen by intermarriage of the Choctaw Nation be dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.
(Signed) TAMS BIXBY, *Chairman.*

It will be noticed that this man Morgan was enrolled by the Dawes Commission and enrolled also by appeal of the nation to the court, the court finding in his favor, so that we have here a case where Mr. Morgan was entitled to citizenship by virtue of the act of the Dawes Commission and also by the judgment of the court of that Territory. He was not made a party to this test suit in which the citizenship court had rendered a judgment against ten persons only. These ten persons named in the test suit did not include Morgan. No judgment against him has ever been rendered. But notwithstanding this the Interior Department holds that he is bound by the judgment against these ten persons.

Now, here is a man who has lost his property right of at least $5,000 in that unheard of proceeding. He acquired this vested property right under an act of Congress, by having made valuable improvements, so I am informed, on his land between the years 1896 and 1902. He was made a citizen of the Choctaw Nation by the act of the Dawes Commission and the judgment of the court.

Every man in this country is entitled to his day in court, and Morgan was never brought into that citizenship court. His judgment was a valid, outstanding judgment under which a property right was acquired, and his judgment can not be set aside except in a direct proceeding brought for that purpose. To set it aside in that way was to do so in defiance of the Consitution of the United States, because it was done without due process of law. All I ask now by my amendment is the right to appeal this one case, the case of Mr. Morgan, to the Court of Claims, so as thereby to definitely determine whether or not several thousand citizens have been robbed of their property and rights of citizenship in these tribes. No court sitting as this citizenship court was sitting has a right to bring in ten persons in one suit and, by a sweeping judgment, hold that a great class of people not parties to this judgment or suit have thereby lost their property rights and citizenship.

It is nothing short of a judicial outrage to hold that Mr. Morgan lost his property by a judgment rendered against ten persons other than himself. When and how did he ever have his day in this strange citizenship court? No man will dare to attempt to defend the actions of this court here or elsewhere, but because it is in the power of the majority of this House to do so it will prevent an appeal to the Supreme Court of the United States or to the Court of Claims. Here is an amendment offered by the gentleman from New York [Mr. SHERMAN], which has gone into the bill, providing for a similar appeal in the case of the Cherokee Indians. Why not extend it to the Chickasaw and the Choctaw Indians?

It is contended that litigation must end in the citizenship cases; hence no appeal should be given. I warn the gentlemen opposing my amendment that unless they grant an appeal litigation has only begun in that Territory. I will read part of a letter from a prominent attorney of that nation proving my statement.

It is as follows:

ATOKA, IND. T., *March 7, 1904.*

Hon. JOHN H. STEPHENS,
Care Fredonia Hotel, Washington, D. C.

DEAR SIR: I have just read a copy of your bill granting an appeal to the Supreme Court of the United States in citizenship cases. I think this bill is one that should be passed by all means.

In the complaint filed by the nations there was no allegation made that the nations had a valid defense to any of the actions. They sought to strike all persons down with one blow; and, under our procedure in this country, before a judgment at law will be set aside in a court of equity the party taking the judgment and the party making the attack must allege and prove a valid defense. As you know, we have a statute here that provides for these suits to be brought, and there have been brought several of these suits in these citizenship cases and the nations had failed to prove their allegations.

There is another matter in connection with this citizenship business that perhaps has not been called to your attention. I have recently been employed by about seventy-five persons that were admitted by the United States court and who have lived a great distance from railroads and who absolutely knew nothing about this new citizenship court. They did not have a chance to go before the court, either in the test suit or to have their cases transferred to that court within the time prescribed by law. If this judgment of this citizenship court is to cut them out, then it will do so without giving them any chance to be heard. As a lawyer, it is my judgment that the judgment of this citizenship court, in the test suit, can not affect persons who are not parties to that action, and that a writ of mandamus will lie to compel the Commission to enroll such persons. If an appeal is granted from this test suit, it will answer the same purpose as a mandamus suit would, and would be far better that a mandamus suit. It would be a serious question as to whether or not the various families would have to bring a separate suit in mandamus.

Our idea in giving any court citizen the right to appeal was to permit persons who had not been a party to this test suit and had not transferred their cases to the citizenship court, and who knew nothing of this court until it was too late to prosecute an appeal, if they so desired. There is no question in my mind but what the Supreme Court of the United States would reverse this Choctaw and Chickasaw citizenship court. These judges came here unfamiliar with the law, as exemplified by their opinion in that suit, and did not make much effort to ascertain what the law was, or else wrote their opinion without regard to the law. That threw the burden of proof upon all these court citizens who can establish their rights, and a great number of the old witnesses were dead and had left the country. It is further my opinion that the act creating this citizenship court is void for several reasons. First, it is an attempt to establish a special court, which, under our Constitution, is not due process of law; second, the act in terms grants a new trial, which is not due process of law. But those things, of course, would all come up in the Supreme Court of the United States on appeal.

If this appeal is not granted there is one thing sure, and that is that every court citizen will sue out writs of mandamus against the Dawes Commission, and, under the present law, these mandamus proceedings will be prosecuted to the Supreme Court of the United States, and instead of the Supreme Court having to determine one suit it will have to determine about 250. If an appeal is granted from the judgment in this test suit it will avoid the great number of suits that would otherwise find their way into the Supreme Court of the United States.

I am sorry to trespass upon your time in this way, but I am interested, as before stated, in seventy-five court citizens who have had no chance before this citizenship court, and a great many of them have friends in your State, and it means complete robbery to them unless some relief is given. Then their homes and farms and every cent they have is upon Indian lands; they have put them there in good faith; are Indians beyond any question.

Very respectfully,
J. G. RALLS.

Mr. Chairman, this measure is in the interest of the nations and of the entire people of the Indian Territory as much as it is in the interests of the claimants who are directly referred to therein. It is extremely desirable that every form of litigation which retards the final allotment of lands in the Indian Territory should cease. In fact, there is an imperative demand for the final closing of the rolls and a final allotment of the Indian citizens who are entitled to participate in the division of the tribal property, and this measure is intended to facilitate such action by providing a method under which, if an injustice be done a person, that person can have a remedy which, from its very nature, will not block the laws of progress in that Territory.

There are several classes of people who believe they have substantial rights and who would be affected by this legislation, and in order to appreciate the force of their contention it is necessary to divide these cases into different groups and to become acquainted with a portion, at least, of the history of the people in order that a proper determination may be arrived at.

In the Choctaw and Chickasaw country or nations there are several classes of cases. These people were originally from Mississippi. The great emigration followed a few years after the Dancing Rabbit Creek treaty of 1830, but a large number of their friends and relatives did not move from Mississippi at that time, and as the years passed there was a constant movement of Choctaw Indians from Mississippi to the Indian Territory. The earlier settlers or emigrants were enrolled, while those who came later were frequently not enrolled, the reason being that the Choctaw nation imposed a tax or charge of $100 per capita upon all persons who made an application for enrollment, and as there were no annuities to be paid and their rights were not denied, but on the contrary were admitted,

there was no advantage whatever to be gained except that of voting for tribal officers. Therefore many of these people did not secure enrollment either for themselves or their families, and, as a result, children born in that country and reared there were not upon the tribal roll.

In 1896 Congress decided, upon the recommendation of the Commission to the Five Civilized Tribes, to prepare a proper roll of the citizens of the five tribes or nations, and delegated the authority to said Commission, allowing for this purpose a period of three months in which applications for enrollment should be received and three months in which decisions were to be rendered by the Commission. After the passage of this act the tribal authorities in the Choctaw Nation sent out a commission and enrolled a large number of citizens, issuing certificates for such enrollment, and after the work had been done the roll was tendered to the Commission and by them rejected for the reason that at this date the Commission was the only party with legal authority to enroll, but, while this was true, these Indians who were admitted by the nation as being members of the nation, and who held certificates signed by the government and the nation, which is the same government now acting, believing that they were enrolled, made no application to the Commission, and the three months elapsed and they have by the harsh operation of a statute construed strictly in favor of the nation, been deprived of all of their rights; nor is this the only case. These people were Indians, in many cases unable to read or write; they had been accustomed to the guardianship of the Government, and for various causes they failed to make applications within that three months, and wherever this occurred the Commission to the Five Civilized Tribes and the Secretary of the Interior have held that these Indians, by reason of this failure, lost their estate of inheritance and they, in law, belong to no tribe. They have no home and they have no rights capable of enforcement—at least such is the holding of the Dawes Commission and the Secretary of the Interior.

After this time the Dawes Commission were instructed to identify the Mississippi Choctaws, and many of these people made applications as Mississippi Choctaws because they could not make any other form of application and receive consideration, and they acted upon the belief that their people having come from Mississippi, or they having come from Mississippi, they had rights under the treaty of 1830, which, by a fair construction, entitled them to relief under that legislation.

In every case they were denied except where a literal and actual compliance with all of the terms of article 14 of the treaty of 1830 was shown, and in those cases a demand was made upon them to strictly and fully show such compliance. This in a great many cases was manifestly impossible, nor should it have been required, and a large number of people were thus prevented from securing any remedy whatever.

Under this system and by reason of these rules there are cases in which brothers and sisters are upon the roll, and other brothers and sisters are not. There are cases in which children have been enrolled and parents of those children omitted. In fact, parts of families in every degree of relationship have been enrolled and are receiving benefits in the shape of allotments, while other portions of these same families are refused any right to participate, and so manifestly unfair is this practice that these people have been contending in all ways for a judgment upon the law, and will continue to contend, thus delaying the final closing of these rolls and the final settlement of the disputed propositions in the Indian Territory. It is the purpose of this measure to furnish a remedy which will prevent this continued litigation.

In the Chickasaw Nation there was no legislation relating to Mississippi Choctaws, and the Commission held that an application of a Chickasaw, not filed within the three months, could not be considered. It made no difference what the excuse might be, and special reference is made to a copy, which is furnished herewith in one of said cases for the information of the committee, entitled "The application of S. D. Gaines."

There is another class of cases to be found in all of these nations where application was made within three months and the same rejected. This condition arose out of a peculiar construction of law on the part of the judges of the courts in the Indian Territory. The original statute provided that where an application was duly filed and the same was rejected an appeal might be taken to the district court, and these judges holding court in three districts furnished three separate and distinct requirements for enrollment. The judge of the southern district held that if the applicant were an Indian by blood he was entitled to enrollment. The judge of the central district held that if the applicant were an Indian by blood and a resident of the Indian country or nation he was entitled to enrollment, but that he must be such a resident. The judge of the northern district held that the applicant must be an Indian by blood, a resident of the nation, and, in addition thereto, that he must have been enrolled prior to the passage of the act; in other words, he must have been born upon the roll or else he was not entitled to be placed thereon, and by such a decision nullified the act of Congress granting authority to the Dawes Commission to enroll these people, because the applicant would not have been brought before him if he had, prior to that time, been upon the rolls.

It is not contended by anyone that prior to the passage of the act of June 10, 1896, there were not a large number of white persons in the Indian Territory who claimed a right to be there and whose claims were entirely fictitious. That is admitted by all. But when the Dawes Commission rejected the applications in the Cherokee country there were nearly 20,000 persons who filed no appeals and who accepted this determination as final. Only those who had merit in their cases or who believed they had merit filed appeals or sought to further prosecute those claims, and there is no doubt whatever of the fact that these claims were to a great extent meritorious, for the same were referred to masters in chancery who made findings to the effect that they were in fact good and true Indians. These people were found to be Cherokees, and in support of this statement there is attached to this brief as an exhibit the papers in the case of Stevens and the findings therein.

Feeling aggrieved at this decision in the northern district, the claimants came to Congress and asked a right to appeal to the Supreme Court of the United States. Such a right was given, but by an unfortunate wording of the statute the court held that the right of appeal as granted only covered the question as to the constitutionality of that portion of the act of Congress delegating to the Dawes Commission the authority to make these appeals, and therefore there was no decision rendered upon these cases on their merits.

There were in the Choctaw and Chickasaw country a number of parties enrolled by order of the court under the rulings heretofore referred to, and these people were included in the appeal in the Stevens case, as the nation in that case appealed from the decision of the court for the purpose of testing the constitutionality of these acts. These cases have, by subsequent legislation, and by the supplemental agreement of July 2, 1902, been transferred to what is known as the "citizenship court," a special tribunal created under the terms of this act, and said court has passed upon the propositions of fact in the cases with relation to their rights on the question of membership in the tribe, but they are limited to those cases which have heretofore been the subject of adjudication and they have no authority to reach this class of causes where citizenship has been wrongfully and unlawfully denied.

It is not my purpose to go further than to show the necessity of a remedy for claims to citizenship under existing conditions, and if these people can have a fair construction of the law before an unbiased tribunal with a chance to recover, not the land itself, but its value, they can and will cease the litigation which otherwise is certain to follow a denial of their rights; for instance, such persons believing that they are entitled to participate in the division of lands will without doubt make an application for an allotment, and upon its being rejected ask of the court to enforce this right of a mandatory writ and, by appealing, prevent the final closing up of affairs in the Indian Territory for a number of years.

It is my belief that the best interests of all concerned will be subserved by granting to these applicants this remedy in the form proposed in my bill. That and that only will stop the litigation in the local courts, permit the closing of the rolls, and if they have no rights the Court of Claims can and will so determine. If they did have rights at that time, viz, June 1, 1896, then the Government of the United States, in its capacity as guardian, can not afford to take from them an inheritance granted under the law and belonging to them by reason of the law.

The proposed measure is remedial. It provides for the adjudication of all of these rights, and for a test case in each of the class of cases referred to. It will not burden the docket of the court, and it will not wrong either the nation or the Government. It is manifestly the proper court in which such an action should be brought for the reason that the judges of said court are familiar with and accustomed to the correct interpretation of treaties and agreements heretofore made between the United States and the Indians, wards of the nation. Local conditions which have in the past entered largely into the consideration of these matters in the Indian country will not affect the court in any way. This latter statement is not intended as a reflection upon the judiciary of the country, but I have heretofore

referred to the fact that three judges who are known as capable men have disagreed upon the requirements of the law in these matters and, that being true, the question is still left open for a just and correct interpretation. This is all that is asked by these people, and to it they are clearly entitled.

Mr. Chairman, I will present the brief in one of those cases as part of my argument in behalf of my amendment. It is as follows:

In the United States court for the southern district of the Indian Territory at Ardmore—Mrs. Ella Adams et al. *v.* Hugh Wallace et al.—Brief for defendant.

STATEMENT.

This is an action in ejectment by the plaintiffs to recover about 200 acres of land. The plaintiffs do not claim to have ever been in possession of the land, but base their title upon a filing made before the Dawes Commission on the 12th day of September, 1904. The defendant is what is known as a "court claimant."

By the judgment of this court, rendered the — day of February, 1898, he was adjudged to be a Choctaw Indian by blood and the Dawes Commission was directed to enroll him as such. In the latter part of the year 1898 he exhibited his judgment to the Commission, and he was enrolled as a member of the tribe. On June 28, 1898, the date of the passage of the Curtis act, and on August 25, 1898, the day the Curtis act was ratified by the Choctaw and Chickasaw nations by popular vote, the defendant was in the possession of the property, owning valuable improvements thereon. He has since remained in possession, continuing to place valuable improvements upon the land. He has offered to file upon the land in question, but the Dawes Commission refused to permit him to do so, claiming that the judgment of the citizenship court, in the "test case," deprived him of the rights of membership in the tribe. He was not a party to the "test suit," no proof was introduced to show that he was situated similarly with the defendants in that case, and there is no finding of the citizenship court that he was so situated. The judgment of that court does not mention his name anywhere in the record, nor is the judgment of this court, wherein he was granted rights of citizenship, anywhere referred to. He asks that the plaintiff's filing be canceled, and that they be enjoined from further interfering with his possession. To this the plaintiff files a demurrer.

ARGUMENT.

First. Our contention is that the act of June 28, 1898, known as the "Curtis Act," vests the defendant with the property right in and to the Choctaw and Chickasaw land, and that this property can not be taken away from him without compensation. If it be once shown that the Curtis Act conferred upon the defendant any property rights, the conclusion must follow that the action of the citizenship court, even if it undertakes to disturb the defendant's status as a citizen, could not divest out of him the title to property acquired under the Curtis Act. In this connection we desire to call the court's attention to the provisions of Congress upon this subject. The act of 1896, under which the defendant made his application to the Dawes Commission for enrollment, provided:

"That if a tribe or any person be aggrieved with a decision of the tribal authorities or Commission provided for in this act it or he may appeal from such decision to the United States district court: *Provided, however,* That the appeal shall be taken within sixty days and the judgment of the court shall be final. The said Commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records and add thereto the names of citizens whose rights may be confirmed under this act, and said rolls shall be, and are hereby, made rolls of citizenship of said nations or tribes; subject, however, to the determination of the United States courts as provided herein."

Here is a direct command to the Dawes Commission to place upon the rolls of citizenship those who procured favorable judgments in the United States courts. No discretion about this matter was left to the Commission. The only thing they could inquire into was whether or not the applicant had procured a favorable judgment in the court. This act of Congress was not in any way repealed or in any way modified, but was in full force and effect on June 28, 1898, the date of the passage of the Curtis Act; it must therefore be conceded by all parties that at the date of the passage of this act the defendant was a member of the Choctaw tribe of Indians. Even if it should be conceded that Congress had the power to provide for further inquiry into the status of the defendant, and that such inquiry might ultimately result in his being denied membership in the tribe, still it must be confessed that at this date he was a member of the tribe.

The case of Hy Yu Tse Mi Kin *v.* Smith (194 U. S., 401), was an action brought by Smith against the defendant to cancel an allotment theretofore made to the defendant under the following state of facts: "Under the treaty of 1885 the land belonging to the Walla Walla band of Indians was to be allotted among the members of the tribes." The act provided for the appointment of three commissioners, who should make allotments to the members of the tribes. It provided, as did the act of 1898, that Indians owning improvements upon land should have the right to allot the same. When the Commissioners came to make the census the plaintiff was living in the State of Washington (the Indian lands being in the State of Oregon) and the Commissioners left her name off of the rolls. After returning to the reservation and after the roll had been made by the Commissioners she made application for enrollment, which application was denied, and which action of the Commissioners was affirmed by the Secretary of the Interior. Thereupon the land was allotted to the defendant, and the Indian agent removed the plaintiff from the land in controversy and placed the defendant in possession. Upon a rehearing the Secretary of the Interior reversed his first ruling and directed the enrollment of the plaintiff as a member of the tribe. She had in the meantime, however, been removed from her land and the defendant placed in possession. She subsequently took an allotment of other lands less valuable than the property of which she had been dispossessed, but before patent was issued abandoned the second tract and brought this suit to cancel the defendant's allotment and restrain him from interfering with her possession, claiming that she took title to the property on the date of the treaty of 1885. The district court granted the relief sought, which was affirmed by the circuit court of appeals, and which was likewise affirmed by the Supreme Court of the United States. The decision was rendered at the October term, 1903, and is the last expression of the Supreme Court on this question.

It must be remembered that the act of 1896, under which the defendant applied to the Dawes Commission, in express terms, required the Commission to add his name to the roll, and provided that such rolls should be found. This act was not repealed, and so when the act of 1898 was passed, providing for the allotment of land, he was then upon the rolls of the tribe and such roll was declared by the aforementioned act to be a final one.

It was beyond question the purpose of that act, as expressed in section 11, to allot the land to court Indians. We believe that we are justified in asserting that this act conferred upon the defendant property rights which can not be divested, except upon a due compensation. We believe the actions of the citizenship court, even if it had undertaken to vacate the judgment of the defendant, would have been unconstitutional and void.

We contend, however, that under no construction of the judgment of the citizenship court in what is known as the "test case" can it be held that such judgment vacated the judgment of the United States court which established the defendant's citizenship.

The so-called judgment of the citizenship court simply annulled the judgments of the ten defendants therein named, and those who had made themselves parties to that litigation, "and the judgments rendered as aforesaid, in favor of all persons similarly situated."

While conceding to the citizenship court a willingness to vacate all the judgments of the United States courts, the language of its decree fall far short of accomplishing this purpose. The dependant, remember, was not a party to that litigation. No proof was introduced to show that he was situated similarly to the ten defendants therein named, nor does the judgment undertake, in express terms, to set aside the judgment he had obtained. Before he can be bound by that decree, it was necessary for the court to hear testimony and to determine judicially that he was in the same condition as the other defendants in that suit. It was also necessary for the court to declare that his judgment was by name set aside. That decree can not be bolstered up or amended by the action of this court.

This court can not presume that the defendant in this case was in the same condition with the defendants in the "test case."

If the citizenship court in its eagerness to obstruct the regular channels of justice, and to strike down, at one blow, the property rights of thousands of American citizens, neglected to take proper steps to accomplish this purpose, its action can not be aided by the findings of this court. To constitute a valid judgment the record of it must contain sufficient certainty and precision to enable the clerk to issue an execution, by inspection of the entry without reference to other entries. (Captain of steamer Mollie Hamilton *v.* Paschal, 9 Heist, 203.)

Black on judgments, volume 1, section 116, criticises the foregoing case, by stating: "The correct rule to be that the judgment is sufficient if the parties affected by it can be ascertained by reference to other parts of the same record. He distinctly announces the doctrine, however, that no party is affected by a judgment where there is not sufficient entries in the record to identify him." To state the proposition differently, neither this court nor the Dawes Commission can enter upon an inquiry as to whether the defendant in this case was similarly situated with the ten defendants in the test case. It was an easy matter to determine by reference to the record wherein the defendant was granted citizenship, whether he was in this situation. It was the duty of the citizenship court to determine this matter, and having failed to do this, this defendant's judgment must be held to be unaffected by any action of that court.

In the case of McCullough *v.* The Commonwealth of Virginia (172 U. S., 123), the Supreme Court utters the following language: But there are more substantial reasons than this for not entertaining this motion. At the time the judgment was rendered in the circuit court of the city of Norfolk the act of 1882 was in force, and the judgment was rightfully entered under the authority of that act. The writ of error to the court of appeals of the State brought the validity of that judgment into review, and the question presented to the court was whether at the time it was rendered it was rightful or not. If rightful the plaintiff therein had a vested right, which no State legislation could disturb. It is not within the power of the legislature to take away rights which have been once vested by a judgment. Legislation may act on subsequent proceedings, but when those actions have passed into judgment the power of the legislature to disturb the right thereby created ceases.

The statement that "The citizenship court was created and such court vested with exclusive jurisdiction to settle all claims of citizenship" can not be sustained. It has never been claimed even by the attorneys for the Choctaw and Chickasaw Nations, nor by the judges of the citizenship court, that such court had jurisdiction to settle all claims of citizenship. The Dawes Commission is to-day determining claims to citizenship of which the citizenship court never had jurisdiction. It has never been asserted by anyone that the citizenship court had jurisdiction or could acquire jurisdiction of any persons claiming citizenship, except such as had judgments in the United States courts.

Section 31 provides:

"It being claimed and insisted by the Choctaw and Chickasaw nations that the United States court in the Indian Territory, acting under the act of Congress approved June 10, 1896, have admitted persons to citizenship * * *, and it being claimed and insisted by said nation that the proceedings in the United States courts in the Indian Territory under the said act of June 10, 1896, should have been confined to a review of the action of the Commission to the Five Civilized Tribes * * * the two nations jointly, or either of the two nations acting separately, and making the other a party defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the Choctaw and Chickasaw citizenship court, hereinafter named, seek the annulment of all such decisions by said courts."

The act then provides that ten persons having judgments in the courts may be made defendants. There is not one line in this section that intimates that this court has jurisdiction to adjudicate the claims of citizenship of anybody except those who had judgments in the United States courts. Section 32, which gives the citizenship court appellate jurisdiction over all judgments of the courts in the Indian Territory, rendered under said act of Congress of June 10, 1896, admitting persons to citizenship or to enrollment, as citizens of either of said nations.

Back of the defendant's title is the judgment of this court, declaring him to be a member of the tribe, and back of this judgment is the act of Congress of June 10, 1896, declaring said judgment to be final, and in imperative terms directing the Dawes Commission to enroll him.

Reenforcing both the judgment of this court and the act of Congress is the act of June 28, 1898, providing for the alloting of land among members of the tribe, section 11 of which in express terms contemplates the allotment of such land to the court claimants. The only opposition to this title that can be urged is that the citizenship court in the assumption of power not warranted by the Constitution, and in a case to which defendant was not a party, and by a judgment that, in no part of its record alludes to the defendant, vacated the judgment of this court and thereby deprived him of valuable property rights which were vested in him by the act of June 28, 1898.

Mr. SHERMAN. Mr. Chairman, I shall insist on the point of order, but I desire to say a word or two as to the fact. The gentleman from Texas [Mr. STEPHENS] has gone quite fully into the argument on his side of the proposition. I desire simply to say that the matter was fully considered on its merits by the Committee on Indian Affairs, and statements were there made which drove a hole through the merits of this proposition bigger than a cheese, and the committee by an almost unanimous vote voted the proposition down. I therefore insist upon the point of order.

Mr. STEPHENS of Texas. Will the gentleman——

Mr. SHERMAN. I shall not take up the time of the committee with a discussion.

The CHAIRMAN. Does the gentleman from Texas desire to be heard on the point of order?

Mr. STEPHENS of Texas. Not at all. I think it is well taken. I would not stultify myself by speaking to it.

Mr. SHERMAN. Mr. Chairman, I desire to insert in the RECORD a report on that item, so that there will be something in the RECORD as to the merits.

The CHAIRMAN. The gentleman from New York asks unanimous consent to insert a paper, which he sends to the Clerk's desk, in the RECORD. Is there objection?

There was no objection.

The report to which Mr. SHERMAN referred is as follows:

A bill to empower the Court of Claims to enter up final judgment in the Departmental case No. 76, and conferring the right of appeal to the Supreme Court of the United States.

That in the case entitled "In the matter of enrollment of persons claiming rights in the Cherokee Nation by Intermarriage *v.* The United States, Departmental No. 76," now pending in the Court of Claims, the said court is hereby authorized and empowered to render final judgment in said case, and either party feeling itself aggrieved by said judgment shall have the right of appeal to the Supreme Court of the United States within thirty days from the filing of said judgment in the Court of Claims. And the said Supreme Court of the United States shall advance said case on its calendar for early hearing.

DEPARTMENT OF THE INTERIOR,
Washington, January 5, 1905.

CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
House of Representatives.

SIR: On February 24, 1903, the Department submitted to the Court of Claims, under the provisions of section 2 of the act of March 3, 1883 (22 Stat., 485), "controverted questions" as to the rights of white persons intermarried with Cherokee citizens in the Indian Territory. A copy of the letter to the court is inclosed.

It is provided in the act of April 21, 1904 (33 Stat., 189–208):

"That the act entitled 'An act to refer to the Court of Claims certain claims of the Shawnee and Delaware Indians and the freedmen of the Cherokee Nation, and for other purposes,' approved October 1, 1890, be, and the same is hereby, amended so as to confer upon the Court of Claims the same jurisdiction to determine the claims and rights of those alleged citizens of the Cherokee Nation, known as 'intermarried whites' as is therein conferred upon said court relative to the rights and claims of the Shawnee and Delaware Indians and the freedmen of said Cherokee Nation, and said case shall be advanced on the calendar of said Court of Claims and the calendar of the Supreme Court, if the same is appealed."

I have the honor to submit a copy of a letter of December 22, 1904, from the Acting Commissioner of Indian Affairs reporting relative to a request by J. J. Hemphill and L. F. Parker, jr., that the Department recommend to Congress to grant the right of appeal to "either party" to the Supreme Court of the United States in the matter referred to the Court of Claims February 24, 1903. A draft of a bill with this object in view is submitted with a favorable recommendation, with the suggestion, however, that the aggrieved party be allowed but thirty days instead of sixty days to appeal from the decision of the Court of Claims.

A copy of the draft and a copy of the letter of Messrs. Hemphill and Parker are inclosed.

The Department considers the legislation proposed advisable.

Respectfully,

E. A. HITCHCOCK, *Secretary.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 22, 1904.

The honorable the SECRETARY OF THE INTERIOR.

SIR: I am in receipt of Department letter of December 15, 1904 (I. T. D. 10085), transmitting for report a communication from J. J. Hemphill and L. F. Parker, jr., in which they recommend that Congress be asked to grant the right of appeal to either party to the Supreme Court of the United States in the case referred to the Court of Claims by the Department February 24, 1903.

In the case mentioned the rights of intermarried white persons to share in the distribution of the funds and property of the Cherokee tribe is involved. Messrs. Hemphill and Parker invite attention to the fact that the act of April 21, 1904, authorized the intermarried white people of the Cherokee Nation to institute suit in the Court of Claims against the Cherokee Nation for their portion of the funds of said nation theretofore distributed. They say that the amount involved in controversy is approximately $750,000. The right of appeal is allowed either party in this suit, and they consider that the same right should be accorded in the case referred by the Department February 24, 1903.

In connection with this matter I have the honor to invite your attention to a case heretofore before the Court of Claims, entitled "Journeycake *v.* The Cherokee Nation and the United States. (28 C. Cls., 281–318), in which the court said among other things:

"Resting its conclusion upon the constitution, the court is of the opinion that all citizens of the Cherokee Nation must be regarded in the administration of their constitutional rights, civil, political, and personal, as Cherokees; that the national council is in effect prohibited by the constitution from making discriminations concerning the common property of the nation between different classes of citizens, and is without power, in the administration of its trust, to perceive differences which exist only in race or blood; that so much of the acts 18th of May, 1883, and 25th of November, 1890, as restricts the payment of funds which were derived from the public domain to 'citizens of the Cherokee Nation by blood' is unconstitutional and void; and that the plaintiffs in this suit are entitled to participate in those funds as if no such restriction had been enacted."

The same court, in the same case (30 C. Cls., 172), afterwards said that—

"The question, therefore, which was determined by the decree was not the absolute number of the Delawares, but the relative proportion which they bore to the whole number of Cherokee citizens. In that proportion the fund of $600,000 was to be distributed and the amount of their share in it ascertained. The enumeration upon which the court acted is as follows:

Cherokees by blood	21,232
Adopted whites	2,011
Delawares	759
Shawnees	624
Creeks	82
Choctaws	11
Negroes	2,052
	26,771

Section 5 of article 3 of the amendments to the Cherokee constitution provides:

"No person shall be eligible to a seat in the national council but a male citizen of the Cherokee Nation who shall have attained to the age of 25 years, and who shall have been a bona fide resident of the district in which he may be elected at least six months immediately preceding such election. All native-born Cherokees, all Indians, and whites legally members of the nation by adoption, and all freedmen who have been liberated by voluntary act of their former owners or by law, as well as free colored persons who were in the country at the commencement of the rebellion and are now residents therein, or who may return within six months from the 19th day of July, 1866, and their descendants who reside within the limits of the Cherokee Nation, shall be taken and deemed to be citizens of the Cherokee Nation."

The Supreme Court of the United States, in the case of Nofire *v.* The United States (164 U. S., 657), said:

"The fact that a marriage license has been issued carries with it a presumption that all statutory prerequisites thereto have been complied with, and one who claims to the contrary must affirmatively show the fact.

"Persons coming to a public office to transact business, who find a person in charge of it and transacting its business in a regular way, and is not bound to ascertain his authority to so act; but to them he is an officer de facto, to whose acts the same validity and the same presumption attach as to those of an officer de jure.

"The evidence shows that the deceased sought, in his lifetime, to become a citizen of the Cherokee Nation, took all the steps he supposed necessary therefor, considered himself a citizen, and that the Cherokee Nation, in his lifetime, recognized him as a citizen and still asserts his citizenship. *Held*, that under those circumstances it must be adjudged that he was a citizen by adoption, and consequently that the jurisdiction over the offense charged is, by the laws of the United States and treaties with the Cherokee Nation, vested in the courts of that nation."

From the provisions of the Cherokee constitution and the holding of the courts in the cases cited it appears that the persons known as white intermarried Cherokee citizens may have a right to participate in the distribution of the land and funds of the tribe. The case mentioned was referred to the Court of Claims by the Department under section 2 of the act of March 3, 1883 (22 Stat., 485). This act does not provide for an appeal to the Supreme Court of the United States from the findings and opinion rendered by the Court of Claims. Were it to find that the intermarried citizens were not entitled to share in the funds previously distributed, and that they are not now entitled to participate in the distribution of the common property of the tribe, and an appeal to the Supreme Court of the United States was taken in the case concerning funds previously distributed and the Court of Claims reversed, the intermarried citizens would then have judgment against the Cherokee Nation for their share of the funds heretofore distributed, and would not, under the findings of the court under the act of March 3, 1883, be permitted to share in the distribution of the common property of the tribe, which is now in course of distribution.

I believe that Congress should be requested to empower either party to the question submitted to the Court of Claims by the Department February 24, 1903, to take an appeal from the findings and opinion it will hereafter render under the act of March 3, 1883, should either party be dissatisfied with such findings and opinion. The only possible objection that I can see to such a course would be the delay that might ensue. The legislation should require that the appeal be taken, if taken, immediately after the Court of Claims has made its findings and rendered its opinion, and that it be advanced on the docket of the Supreme Court of the United States in order that no delay may be occasioned on account of such appeal in winding up the affairs of the Cherokee tribe.

Since the forgoing was written I have been informally advised that, at the request of the Assistant Attorney-General, Messrs. Hemphill and Parker prepared a draft of a bill, such as they would like to have en-

acted, and I have been furnished with a copy thereof informally, which is as follows:

"A bill to empower the Court of Claims to enter up final judgment in the Departmental case No. 76 and conferring the right of appeal to the Supreme Court of the United States.

"*Be it enacted, etc.*, That in the case entitled 'In the matter of enrollment of persons claiming rights in the Cherokee Nation, by intermarriage *v.* The United States, Departmental, No. 76,' now pending in the Court of Claims, the said court is hereby authorized and empowered to render final judgment in said case, and either party feeling itself aggrieved by said judgment shall have the right of appeal to the Supreme Court of the United States within sixty days from the filing of said judgment in the Court of Claims. And the said Supreme Court of the United States shall advance said case on its calendar for early hearing."

I have considered the draft and it seems to be sufficient for the purpose intended. I suggest, however, that the aggrieved party be allowed but thirty days instead of sixty days to appeal from the decision of the Court of Claims, which suggestion is made with a view to prevent unnecessary delay.

Very respectfully, A. C. TONNER, *Acting Commissioner.*

FEBRUARY 24, 1903.

To the COURT OF CLAIMS.

SIRS: By section 21 of the act of June 28, 1898 (30 Stat., 495, 502), the Commission to the Five Civilized Tribes was directed to make rolls of citizenship of the several tribes, enrolling, among others, "such intermarried white persons as may be entitled to citizenship under Cherokee laws." By the act of May 31, 1900 (31 Stat., 221, 236), said Commission was authorized to continue the exercise of authority theretofore conferred on it by law with a direction as follows: "But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior." By the act of July 1, 1902 (32 Stat., 716, 720), further direction was given as to the making of the rolls of citizens of the Cherokee Nation, as follows:

"SEC. 25. The roll of citizens of the Cherokee Nation shall be made as of September 1, 1902, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes.

"SEC. 26. The names of all persons living on the 1st day of September, 1902, entitled to be enrolled as provided in section 25 hereof, shall be placed upon the roll made by said Commission, and no child born thereafter to a citizen, and no white person who has intermarried with a Cherokee citizen since the 16th day of December, 1895, shall be entitled to enrollment or to participate in the distribution of the tribal property of the Cherokee Nation.

"SEC. 27. Such rolls shall in all other respects be made in strict compliance with the provisions of section 21 of the act of Congress approved June 28, 1898 (30 Stat., 495), and the act of Congress approved May 31, 1900 (31 Stat., 221)."

A controversy has arisen as to the rights of white persons intermarried with Cherokee citizens, and a protest has been filed with this Department on behalf of a large number of citizens of the Cherokee Nation by blood against the enrollment of intermarried persons "so as to recognize their right to participate in the distribution of any of the common property of the Cherokee Nation of whatever kind or character." It is asserted, on the other hand, that the Cherokee laws have never recognized the right of an "intermarried citizen" to share in the distribution of the property of the nation, and, on the other hand, that the Cherokee laws, as well as the laws of Congress, recognize those persons who have been married to Cherokee citizens in accordance with the laws of the Cherokee Nation relating to marriage as full citizens of such nation, entitled to share equally with full-blood citizens in the property of the tribe.

The controverted questions involved in this matter, now pending before this Department, are respectfully submitted for your findings and opinion, in accordance with the provisions of section 2, the act of March 3, 1883 (22 Stat., 485). The protest referred to, which states the questions involved, is inclosed herewith, and upon receiving information that any other papers in the possession of the Department are needed they will be promptly transmitted.

Very respectfully,

E. A. HITCHCOCK, *Secretary.*

WASHINGTON, D. C., *December 12, 1904.*

The honorable the SECRETARY OF THE INTERIOR,
Washington, D. C.

SIR: Your attention is respectfully called to the following situation:

By Department letter of February 24, 1903, addressed to the Court of Claims, there was referred to that tribunal, under the provisions of section 2 of the act of March 3, 1883 (22 Stat., 485), the controversy as to whether white persons intermarried with Cherokees had the right to participate with the Indians "in the distribution of the common property of the Cherokee Nation of whatever kind or character." The findings and opinion of the Court of Claims were asked upon that question. The amount involved is approximately $5,000,000.

By a provision in the act of April 21, 1904, these same intermarried white persons were authorized to institute a suit by petition in the Court of Claims against the Cherokee Nation for their portion of the funds of said nation heretofore distributed. The amount involved in this controversy is approximately $750,000. A right of appeal is allowed to either party in this last suit to the Supreme Court of the United States, while by the provisions of the act first referred to, under which the Department submitted the controversy to the Court of Claims, no appeal is allowed.

In both of these cases the white persons intermarried base their claim upon an alleged grant to them by the Cherokee Nation of a right to participate in the common property equal with native Cherokees. Although recent legislation of Congress presents some questions in one case that are not in the other, yet the same general questions will arise and must of necessity be determined in each case, and therefore the incongruity is presented of giving the final judgment to the Court of Claims in the one case and the right of appeal and review to the Supreme Court in the other. A difference of opinion by these courts would present a distressing situation, especially when the case in which no appeal is allowed is to be first heard by the Court of Claims.

The one possible objection to allowing an appeal in the case referred by the Department to the Court of Claims is the delay in allotment that might result. This objection, upon investigation, is minimized. Without these intermarried whites there are approximately 37,000 Indians entitled to allotment in the Cherokee Nation. Less than one-half of these have received allotment, although the work has being going on for two years. The work of allotting the last half will necessarily be much slower, and even should the force be doubled it will require a year to allot the Indians. The case in which no appeal is allowed is set for a hearing before the Court of Claims January 17, 1905, a month hence. If Congress authorizes an appeal and the cause advanced on the docket of the Supreme Court, the same could be heard and determined by fall without any delay to allotment and the intermarried whites in the meantime in possession of the lands heretofore occupied by them.

But aside from this a condition is presented. As it now stands, suppose the Court of Claims should find that the Cherokees had granted rights in the common property to the intermarried whites, and upon this finding the Department proceeded to make distribution of this estate among them. Later, in the other case, the Supreme Court on appeal should determine that the Court of Claims erred in its findings and that the Cherokees had not granted the intermarried whites any right to the funds belonging to the nation. Both judgments, one affecting the lands principally and the other the funds, would be final and yet contrary to each other. The result would embarrass the Department, and the conflict would create dissatisfaction among the people affected and might result in serious trouble.

We therefore most respectfully request, to remove this difficulty, that the attention of Congress be called to the matter and a request made that the right of appeal be granted to either party to the Supreme Court of the United States in the case referred to the Court of Claims by the Department on February 24, 1903, being the controversy as to whether white persons intermarried with Cherokees have the right to participate with the Indians in the distribution of the common property of the Cherokee Nation of whatever kind or character, and being Departmental No. 76 on the docket of the Court of Claims, so that the highest court in the land may render the same judgment in both cases, which the importance of the questions involved justify and the provisions of the act of April 21, 1904, as to one case, make absolutely necessary.

We have the honor to be, your obedient servants,

JOHN J. HEMPHILL,
Attorney for Full-Blood Cherokees.
L. F. PARKER, Jr.,
National Attorney, Cherokee Nation.

The Clerk read as follows:

That the Court of Claims is hereby directed to adjudicate and give judgment on the claim of Charles —. Winton and his associates for services rendered to the Mississippi Choctaws, in such amount as may appear equitable for such service, which judgment, if any, shall be paid by the Secretary of the Interior out of funds in his hands now or hereafter due per capita to the Mississippi Choctaws.

Mr. FINLEY. Mr. Chairman, I reserve the point of order on the peragraph just read, on the ground that it is new legislation. I would like to hear an explanation of it.

Mr. SHERMAN. Mr. Chairman, certain attorneys claim to have been performing services for a number of years for the Mississippi Choctaws and claim not to have been paid. This provision permits them to go to court to obtain a judgment for the services—they have a contract with the Indians—in such amount as is considered equitable.

Mr. FINLEY. About what is that contract? How much does that contract provide for as compensation to the attorneys?

Mr. SHERMAN. This provision does not purpose to hold them to a contract, but proposes they be given whatever amount shall be considered equitable.

Mr. FINLEY. I understand that, but I ask the gentleman if he knows what is the agreement?

Mr. SHERMAN. I have not it in mind. I think I have a copy of the contract here, which I will insert in the RECORD, if I have it. The papers are somewhat voluminous.

Mr. FINLEY. Is not this the case where the attorneys claim about $750,000?

Mr. SHERMAN. This, I think, is not the case the gentleman has in mind. The McMurray case is the case the gentleman has in mind. This case, I think, will be recognized as the Owens case.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. SHERMAN. Certainly.

Mr. STEPHENS of Texas. I desire to know who made this contract with the Indians?

Mr. SHERMAN. Charles F. Winton.

Mr. STEPHENS of Texas. With what Indians?

Mr. SHERMAN. With the Mississippi Choctaws.

Mr. STEPHENS of Texas. As a tribe? I did not know the Mississippi Choctaws had any tribal government. The Choctaws of the Indian Territory have not a tribal government. The Mississippi Choctaws, I understand, are scattered around.

Mr. SHERMAN. That is true.

Mr. STEPHENS of Texas. And what authority have those scattered Choctaws in Mississippi to make a contract to bind themselves to pay an attorney's fee?

Mr. SHERMAN. Possibly they have not the right, but they have the right to bind themselves so far as those who joined in the contract are concerned at least.

Mr. STEPHENS of Texas. Could not that be enforced through the courts if they had the right to contract against the Indians who made a contract with attorneys?

Mr. SHERMAN. I should think it could.

Mr. STEPHENS of Texas. Then why should Congress have anything to do with it?

Mr. SHERMAN. I have not all the details in my mind as clearly as I wish I had, because it has been some little time since I read the full statement, which is quite voluminous.

Mr. STEPHENS of Texas. Has this contract been approved by the Secretary of the Interior or the Commissioner of Indian Affairs?

Mr. SHERMAN. I understand not.

Mr. STEPHENS of Texas. Has it ever been presented to them for approval?

Mr. SHERMAN. I understand, yes, and that it has not been approved.

Mr. STEPHENS of Texas. Then it has been rejected by them?

Mr. SHERMAN. I so understand.

Mr. STEPHENS of Texas. Then they are appealing to Congress to do something the Department has already refused to do?

Mr. SHERMAN. That is what I understand.

Mr. STEPHENS of Texas. What is the amount of the claim?

Mr. SHERMAN. I do not know. No amount is stated in the papers.

Mr. STEPHENS of Texas. Would it not be very wrong to present a claim here without stating the amount or the amount of service which was performed to the Court of Claims?

Mr. SHERMAN. The papers here state quite fully what the service performed was, and this is a proposition to permit them to go to court, not to recover under a contract, but to recover what the court says is a reasonable compensation for the services rendered.

Mr. STEPHENS of Texas. Would the gentleman be willing to admit an amendment to this item?

Mr. SHERMAN. Oh, I am not strenuous about the proposition at all. I am ready, if the gentleman desires to raise the point of order on it, to admit it is susceptible to it. I would not even raise the question that it was too late to make the point of order.

Mr. STEPHENS of Texas. Will the gentleman permit this kind of an amendment: That the Court of Claims shall also determine the amount that is due Mansfield, McMurray, and Cornish by the Choctaw and Chickasaw Indians for the last six years?

Mr. SHERMAN. No, sir; I would not.

Mr. STEPHENS of Texas. Is not the gentleman from New York aware they are claiming $750,000 for services?

Mr. SHERMAN. Yes, sir.

Mr. STEPHENS of Texas. And that at the same time they have been drawing $5,000 from each nation, making $10,000 a year?

Mr. SHERMAN. I knew that they were drawing a considerable sum; I did not recall exactly how much.

Mr. STEPHENS of Texas. Is not my friend also aware the governors of these nations are believed to be in collusion with those men, and they have recommended they receive more than a million dollars? Is he aware of that fact—that the governors of those two nations recommended to this citizens' court——

Mr. SHERMAN. I knew the governors of those Indian nations have been willing that they should be paid a very large sum, some hundreds of thousands of dollars, but I do not now recall exactly how much.

Mr. STEPHENS of Texas. Is he aware of the further fact that this citizens' court was influenced so that they allowed $750,000, an enormous fee, to these people?

Mr. SHERMAN. I know they allowed a very large sum, running into the hundreds of thousands of dollars, but I did not realize exactly how much.

Mr. SMITH of Kentucky. I am very much interested in this development, and I would like to know something about the nature of the services rendered.

Mr. SHERMAN. What the gentleman from Texas is now inquiring of me has nothing to do with this provision of the bill.

Mr. STEPHENS of Texas. But I want to add that as an amendment to this bill. Here is one attorney's fee you propose to pay here and——

Mr. SHERMAN. This is no proposition that any money be appropriated to pay. It is simply a proposition that this person be permitted to go to court and there have the court say not what is due him under any contract, but what is a reasonable sum to be paid for the services which he proves he has rendered. That is the proposition.

Mr. STEPHENS of Texas. And why will not the gentleman from New York let Mansfield, McMurray & Cornish go to court the same way and let that court determine whether these Indian tribes shall be robbed of three-quarters of a million dollars?

Mr. SHERMAN. Possibly I would if it was brought up in our committee and considered.

Mr. FINLEY. What was the extent of the services rendered by these attorneys or of the claim that is made?

Mr. SHERMAN. The papers do not state how much in dollars is claimed, but they state here quite fully just what services were performed.

Mr. FINLEY. Briefly stated, what is that—what services have been performed?

Mr. SHERMAN. It covers services rendered beginning back in 1896 or 1897 down to the present time for the Mississippi Choctaws, who are located in Mississippi, for rights which they claim to possess in the lands of the Choctaw Nation in the Indian Territory.

Mr. FINLEY. Do they claim a definite contract with the Indians?

Mr. SHERMAN. That is my recollection.

Mr. FINLEY. About what per cent?

Mr. SHERMAN. I do not remember. I thought there was a copy of the contract with these papers, but it is not here. But they are claiming no special amount under that contract.

Mr. FINLEY. I understand that.

Mr. SHERMAN. They are not now asking to be allowed under that contract. They are asking to have the matter go to the Court of Claims and to have it adjusted there.

Mr. LACEY. That contract was submitted in the usual way to the Department for approval before it was executed at all, and these parties are waiving the benefits of that contract, and would simply concur in what is really right, notwithstanding the fact they have asked——

Mr. FINLEY. Do I understand the gentleman that the Department approved this contract?

Mr. LACEY. There is no contract for attorney's fees unless approved by the Department under existing law.

Mr. FINLEY. Do I understand you that the Department approved the contract in the first instance? My information is that the Department disapproved the contract.

Mr. SHERMAN. That is my understanding.

Mr. LACEY. Whether it had been approved or not it had to be approved to be of any validity, and these services are independent of any contract. I had an impression that this particular contract had been approved, as they always have to be approved in order to possess any validity.

Mr. FITZGERALD. Mr. Chairman, I would like to ask the gentleman from New York [Mr. SHERMAN] a question.

The CHAIRMAN. Does the gentleman from New York [Mr. SHERMAN] yield to the gentleman from New York [Mr. FITZGERALD]?

Mr. SHERMAN. Yes, sir.

Mr. FITZGERALD. Were the services rendered after the Department refused to approve the contracts?

Mr. SHERMAN. Some of them; yes. The affidavit of Mr. Winton shows in a general way that he and his associates were actively engaged in protecting the interests of the Mississippi Choctaw Indians from 1896 to 1903 before the Dawes Commission, before the courts, before the Secretary of the Interior, before the Commissioner of Indian Affairs, and in Congress. Also that numerous people and attorneys were employed to assist and to cooperate with said Winton and Owen, and that considerable effort and expense and valuable services were rendered in the matter of the protection of these Indians. These attorneys claimed the credit for the provisions inserted upon the motion of the distinguished gentleman from Mississippi [Mr. WILLIAMS] in the bill two or three years ago, to remove the restrictions which theretofore existed to the right of the Mississippi Choctaws who thereafter removed to the Indian Territory to take their allotment among the other Choctaws.

Mr. FITZGERALD. I reported that bill of my own motion for the gentleman from Mississippi [Mr. WILLIAMS], and it passed the House and it was afterwards put on the Indian appropriation bill. These attorneys never knew anything about it.

Mr. SHERMAN. That is one of their claims in these papers.

Mr. STEPHENS of Texas. I am compelled to make a point of order. I do not think it fair that the gentleman should put what he wants in this bill, as he did in one instance a few minutes ago—that is, in regard to the appealing of a Cherokee case and ruling out the Choctaw and Chickasaw case. I asked to add another attorney's fee and let it go to the Court of Claims, and therefore I raise a point of order.

Mr. SHERMAN. The gentleman from Texas [Mr. STEPHENS] is in error in thinking that I care particularly about any provision. I do not care whether it goes in or not, or whether an-

other goes in or not. I have not the slightest personal desire in the matter. I have no constituent that is in any way interested. I have simply presented to the Indian Committee, and it has inserted most of these provisions that have come recommended by the Department. This did not happen to come recommended by the Department, but I can not remember who brought it. I presume Mr. Owen did, and it impressed me as being fair. I am entirely satisfied to have it go out on the point of order.

The CHAIRMAN. The gentleman from Texas [Mr. STEPHENS] insists on the point of order. The Clerk will read.

The Clerk read as follows:

For the maintenance, strengthening, and enlarging of the tribal schools of the Cherokee, Creek, Choctaw, and Seminole nations, and making provision for the attendance of children of noncitizens therein, and the establishment of new schools under the control of the tribal school boards and the Department of the Interior, the sum of $100,000, or so much thereof as may be necessary, to be placed in the hands of the Secretary of the Interior, and disbursed by him under such rules and regulations as he may prescribe: *Provided*, That the Attorney-General of the United States is hereby authorized and directed to turn over to the Secretary of the Interior all money now in his hands paid over to him by the clerks and deputy clerks of the United States courts in the Indian Territory under the provisions of the act of February 19, 1903, which, under the terms of said act, is to be applied to the permanent school fund of the district, and all money which may hereafter come into his hands from the same source under said act; and the Secretary of the Interior is hereby authorized to use said money in maintaining, strengthening, and enlarging the schools in the Indian Territory as provided for in this paragraph.

Mr. REID. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by inserting in line 18, page 49, after the word "hundred," the words "and fifty."

Mr. SHERMAN. Does the gentleman desire to speak to the amendment?

Mr. REID. I want to say a few words. I do not know what the position of the gentleman from New York is, but it strikes me that the appropriation ought to be increased. From my knowledge of the facts, and the very small increase asked for, the conditions almost imperatively demand it.

Mr. SHERMAN. My recollection is, and I think the gentleman will bear me out, that the matter was discussed whether that should be one hundred or one hundred and fifty, and the committee determined to make it one hundred, and not one hundred and fifty.

Mr. REID. I remember the deliberations of the committee on that subject, Mr. Chairman, but since that time I have investigated it somewhat and had my attention called to it further, and I think if the facts were fully made known to the Committee of the Whole House that this slight increase would be made. Some years ago an investigation was made by authority contained in the Indian appropriation bill, and it developed a condition of affairs down there without parallel anywhere else in the country. To make a long story short, Mr. Chairman, there are perhaps 60,000 children to-day outside of the cities and towns in the Indian Territory utterly without any school facilities whatever. Now, $100,000 was carried in the last Indian appropriation bill for the purpose, in one sense, of making an experiment on that subject, and most excellent results have been attained. The fact that the political organization is to be changed there, I hope in the near future, and a different form of government to obtain, the abolition of the tribal distinctions, and the distinction between Indians and whites, should be broken down as rapidly as possible.

They should be helped to come in as citizens in the common enjoyment of equal privileges and rights. Nothing can hasten that, it seems to me, more than the coeducation of the two races. There are no race antagonisms; there are no unworthy rivalries between the two races. They are attending schools now where provision is made for coeducation of the two races inside the incorporated towns, and excellent results have been attained. The Indian children learn the language of the whites faster and it stimulates and creates an ambition when they have the privilege of educational facilities alike. There are 60,000 of these noncitizen children in that Territory utterly without those facilities. The people have availed themselves of the small appropriation heretofore made wherever they can. Under the appropriations made and used under the wise administration of the Secretary of the Interior results have been obtained that compare favorably with those attained anywhere else. This appropriation has been exclusively used for paying the teachers having charge of the education of Indian and white children in each of the schools. I think, Mr. Chairman, that the appropriation ought to be increased this small sum.

Another provision in the bill authorizes the Attorney-General to turn over to the Secretary of the Interior certain funds accumulated in his hands, which will make this amount now provided in the bill about $158,000. The amount in the hands of the Attorney-General, which the bill provides shall be turned over to the Secretary of the Interior, is, I understand, about $150,000. I do not think the committee went into it very fully. Taking into consideration the supplement to this fund collected in the courts down there, that will, with the $150,000, make $208,000. In view of the fact that the bill carries $2,500,000 less than last year—and I am hardly in accord with the spirit of economy that pervades this body at this time—it can well afford to allow this addition to be made for the benefit of education. These are children of American citizens. They are the children of a parentage that are educated themselves, and they keenly feel the want of educational facilities; and I hope the gentlemen will agree with me.

Mr. SHERMAN. Had not the matter been considered in the committee, had not the gentleman's proposition there been voted down, I would be disposed to refrain from any opposition whatever.

Mr. LITTLE. I would suggest that the gentleman keep quiet and let us pass this.

Mr. SHERMAN. It seems to me that the chairman of the committee ought to maintain as far as he can what his committee have done. I have done that so far. I have argued in favor of propositions here that were placed in this bill in the committee against my vote, and would do so again, because I think it is the chairman's duty to stand for what the committee has recommended. We considered in the committee this proposition, and voted against $150,000. The principal reason, as I recollect, was because there is to be this additional amount from this other source added to the $100,000, so that with that added sum the amount will be $50,000 larger than last year.

Mr. CURTIS. And I might suggest that last year they maintained 130 schools with that $100,000, and they can maintain at least half that many more with the fifty-eight thousand.

Mr. REID. If my friend the gentleman from Kansas will permit me, the report shows that they are only able to furnish educational facilities for about 12,000 children. That leaves 60,000 absolutely without any means whatever.

Mr. CURTIS. The gentleman does not claim that there are over 100,000 children outside of the towns——

Mr. REID. There are 72,000 children, according to the report of the special agent.

Mr. CURTIS. If we provide for seventy more schools, don't you think the people of the Territory would be well satisfied?

Mr. REID. This is something that ought to be done at once, in view of the fact that this race are to be absorbed and amalgamated with their white brethren. The sooner they begin in the schools the better. There is no argument that can prevail against it. If this had come up as a separate and distinct proposition it could not fail to have the approval of this House. The gentleman from New York suggested that it was taken up in the committee——

Mr. CURTIS. I will say to the gentleman that I am ready to support this amendment.

Mr. SHERMAN. My opposition is not personal nor is it strenuous. I simply state that in the committee it was considered and voted down. Now, if this Committee of the Whole desires to take issue with the Committee on Indian Affairs I am entirely content. I think there is merit in the proposition, frankly.

Mr. REID. I hope the gentleman will not think I am taking issue with the committee.

Mr. SHERMAN. Oh, no; I understand.

Mr. REID. I have taken pleasure in supporting the committee in nearly everything, and I think the committee have been careful and conservative in their estimates; but I do not think this particular item, not amounting to a great deal, received the careful consideration that it ought to have had in the committee. The authority to investigate has been delegated to different agents, and reports have been made now some two or three times on this proposition. To be fair with the committee, I did not urge it before the Committee on Indian Affairs as I do now. I was not informed upon it then as I think I am now.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from Arkansas [Mr. REID].

The amendment was agreed to.

The Clerk read as follows:

For collection and transportation of pupils to and from Indian schools, and also for the transportation of Indian pupils from all the Indian schools and placing of them, with the consent of their parents, under the care and control of such suitable white families as may in all respects be qualified to give such pupils moral, industrial, and educational training, under arrangements in which their proper care, support, and education shall be in exchange for their labor, $60,000,

Mr STEPHENS of Texas. I offer the following amendment.

The amendment was read, as follows:

Amend by adding at end of line 19, page 50, the following: "*Provided, however*, That the Commissioner of Indian Affairs may, when in his judgment the good of the Service will be promoted thereby, suspend or discontinue any Indian school, whether a reservation or nonreservation school, and, with the approval of the Secretary of the Interior, may sell any school building or plant that is no longer desirable as an Indian school and invest the proceeds in other school buildings and plants in any reservation as the needs of the service may demand, under such rules and regulations as he may, with the approval of the Secretary of the Interior, prescribe."

Mr. SHERMAN. I raise the point of order that that is new legislation.

The CHAIRMAN. The gentleman from New York makes the point of order against the amendment.

Mr. STEPHENS of Texas. Will the gentleman withhold the point of order just a moment?

Mr. SHERMAN. I do not want to be discourteous at all, but if I simply reserve the point of order the gentleman discusses what he considers the merits. I then, without answering them, because we have not the time, simply raise the point of order. I reserve it now, however.

Mr. STEPHENS of Texas. I desire simply to state that it is in line with the recommendation, as I understand it, of the Indian Rights Association and other persons who have investigated this matter, who believe that it is much better to educate the Indians in the reservations than it is to educate them at nonresident schools hundreds of miles away from their homes. On yesterday I spoke at length upon this subject and do not now wish to reiterate my argument. I wish simply to state that it is much better, in my judgment, that the schools should be taken to the Indians than that the Indians should be taken to the schools.

Mr. SHERMAN. I would support the proposition in committee if it were presented there. It has not been considered by the committee, and it is new legislation, and I think we ought not to consider it in this way. I insist on the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FITZGERALD. I offer the following amendment.

The amendment was read, as follows:

After line 15, page 50, insert:
"*Provided*, That no part of the moneys hereby appropriated shall be expended for the transportation of any pupil or pupils to any Indian school located without the boundaries of the reservation wherein such child resides, without the consent of the parents or guardians of such child or children being first had in writing."

Mr. SHERMAN. Mr. Chairman, I raise a point of order against the amendment.

Mr. FITZGERALD. I think, Mr. Chairman, the point of order does not lie, for this is simply a limit on the appropriation.

The CHAIRMAN. The Chair will hear the gentleman from New York on the point of order.

Mr. FITZGERALD. The provision in the bill provides that certain money shall be expended for the collection and transportation of pupils to Indian schools, and for the purpose of placing them with white families, provided the consent of the parents is obtained for that. Now, this merely provides that the money shall not be expended for the purpose of collecting or transporting them unless a further consent is obtained. It already requires the consent to be obtained to place the children with families. I am not prepared, Mr. Chairman, to argue very extensively the point of order; not nearly as much as I am prepared on the merits of the question.

The CHAIRMAN. The Chair will hear the gentleman from New York.

Mr. SHERMAN. May I hear the amendment read again, Mr. Chairman?

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection, and the Clerk again read the amendment.

Mr. SHERMAN. I guess, Mr. Chairman, I can not argue that the amendment is out of order. [Laughter.] At the first reading I did not catch the purport of it, but now it seems that it is simply a limitation.

The CHAIRMAN. Does the law now provide that children must go irrespective of the will of the parents?

Mr. SHERMAN. I think there is no provision in reference to that whatever. As I understand from the reading of the amendment, it applies simply to this appropriation.

Mr. STEPHENS of Texas. I would like to ask the Chairman if he is not informed of the fact that the Indians have been taken away from tribes in violation of the desire of the families, the father and mother and guardians, and brought to these schools?

Mr. SHERMAN. I have been told that such a case occasionally exists.

Mr. STEPHENS of Texas. That is from a desire to fill up the nonreservation schools.

Mr. SHERMAN. Oh, not necessarily. I do not think that is the fact. I can not think that a superintendent of any school is so anxious to fill up his school that he breaks up ruthlessly a family in order to get students.

Mr. STEPHENS of Texas. Is the gentleman aware that Mr. Jones, the last Commissioner, has so stated?

Mr. SHERMAN. Oh, yes; I heard him state something of that kind, and I took issue with him at the Mohonk conference, and he back pedaled a little. [Laughter.]

Mr. STEPHENS of Texas. He is a man of great honor and honesty.

Mr. SHERMAN. He modified his statement somewhat and didn't leave the impression upon me or the people of the conference that that practice was anything more than an occasional occurrence. It was not anything like a general practice.

Mr. STEPHENS of Texas. Does not the gentleman think that it is reprehensible even if it seldom occurs?

Mr. SHERMAN. Oh, I have seen a case now and then where it might be well to take the child even if the parents did not agree. I know a good many white parents whose children would be much better off if they were away from the parents.

Mr. STEPHENS of Texas. Would it not be better to provide that the schools should be inside the reservation rather than a hundred miles away?

Mr. SHERMAN. Not necessarily; I have no doubt that there is often a case where the farther the child is from the environments of the parents the better it is for the child. In my judgment, there have been very few cases of the kind suggested by the gentleman where children have been taken, except with the consent of the parents, and in those cases they may have been justified by the conditions.

Mr. STEPHENS of Texas. Does the gentleman think that when they come back on the reservation they may return to the old life?

Mr. SHERMAN. Some of them do and many of them do not. I presume a majority of students who are away at school, when they return to the reservation, drop back into habits which they had before they left; but there can be no doubt but that they are sufficiently changed, their characters and morals are sufficiently bettered by attendance at school to have something of an elevating influence over the Indians with whom they come in contact after their return.

The CHAIRMAN. Does the gentleman from New York withdraw the point of order?

Mr. SHERMAN. No; I have not withdrawn it.

The CHAIRMAN. The Chair will overrule the point of order.

Mr. SHERMAN. I thought the Chair would do so. [Laughter.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

Mr. FITZGERALD. Mr. Chairman, there is a question that I believe will give great difficulty to the Committee on Indian Affairs in the near future.

There are a number of nonreservation boarding schools. Previously it was somewhat easy to obtain pupils from the different reservations for these schools, but as the reservations are being allotted and opened for settlement there is more difficulty in obtaining these pupils. The time will come when it will be impossible to obtain the requisite number of pupils for the existing nonreservation boarding schools, and what disposition to make of those schools will be a matter of serious concern to the Committee on Indian Affairs. What prompts this particular amendment, however, is the language used by the gentleman who was recently Commissioner of Indian Affairs [Mr. Jones]. The language was used in an address made by him at Lake Mohonk conference, and it was peculiarly significant. If his statement is accurate, it describes a deplorable condition in the Indian Service, and it seems to me that perhaps he must have been as much responsible for the conditions that were permitted as anybody else in the service.

In speaking of the way in which these pupils are obtained for nonreservation schools Commissioner Jones said:

But there is more to come. The Indian children are educated. I wonder if it is generally known what is done for "poor Lo" in this direction. Let us see. Do not worry that I am going to tire you with a long array of figures, for I am not. It is enough for me to say that the Indian population of the United States (omitting the Five Civilized Tribes) is reckoned about 187,000, of which 47,000 are probably of school age. To educate these there are altogether 253 Government schools, with some 2,300 employees. The boarding school is what I wish to speak of now. There are 90 of these, 61 being located in 21 States and 29 in 3 Territories. Here some 18,000 Indian children are lodged and fed and clothed and taught, and are given all the comforts of life, and many of its luxuries, all for nothing—absolutely nothing.

How do they get there? Do their parents bring them and ask that they be received? No. Do they even pay the expense of getting them there? No. Then how do they get there? Why, they are captured on the reservations, by bribery, by force, by coaxing, by threats, and dragged there; without preparation, without regard to fitness, without previous training, without regard to their worldly condition, solely because they have Indian blood in their veins, sometimes a mere suspicion, and will count in making up the quota of a school. I saw the other day in a great metropolitan paper a graphic account of the rounding up of children by the Indian police to take them away to school, and it read like rounding up cattle for market; and another writer, who ought to know, speaks of the gathering of children to send to school as the ruthless tearing of babes from the mother's arms. Another paper that I saw not long ago, a local one this time, near a large Indian school, expressed its satisfaction that the school was in full operation after the summer vacation. Why? Because it was for the good of the children? No; but because the parents of many of the pupils were wealthy, and their children would have money to spend in the town near which the school was located.

Who pays for all this? The Government; and it costs millions of dollars annually. The amount spent for education for the fiscal year just closed was, in round numbers, $4,000,000. Of this, $3,000,000 was spent in 21 States and $1,000,000 in 3 Territories. All, with the exception of probably $600,000, was a gift from the Government pure and simple. The Indian does not contribute one cent, not even the simplest thing. He has his child kept and taught for absolutely nothing, while many a white man around him has to pinch and deny himself to give his child even the benefits of the common school.

Talk about paternalism! Is not this paternalism gone mad? Talk about class legislation! Was there ever such class distinction as this? Where and when is all of this to stop? Is this thing to go on forever? In the last twenty years the Government has devoted over $44,000,000 to the education of its almost infinitesimal Indian population. And it is worthy of note that probably three-fourths of this has gone into independent and thoroughly organized States, of which many of the Indians are citizens, and which are equipped with excellent school systems of their own. Many of the pupils first educated are grown and have children of their own. Are these to be educated as their parents were? And in course of time, are their children to be educated, too? Are the 187,000 of a distinctive class to go on year after year and have education given them for nothing, while the rest of our 80,000,000 get it for themselves? I must not be understood as out of sympathy with the cause of Indian education. My only objection is to the present system and the principles involved.

I would discontinue a number of nonreservation schools at once, and rapidly reduce the others until but two or three remained; and those two or three I would devote to the training of Indians for instructors' work among their own people. Instead of building more, I would reduce the present reservation boarding schools, but I would increase the day schools, and encourage the work in the local field. These views are radical, I know, but they are not a hasty utterance, but a deliberate opinion, formed after seven or eight years of close study of the subject in the office and in the field. I do not believe that the best results—nay, I do not believe that satisfactory results—are obtained by taking a child hundreds, sometimes thousands, of miles away from his home, and keeping him there and educating him without any sacrifice of his own, and then returning him to the home to which, in the very nature of things, he must have grown indifferent in the years he was away. It is not by taking the Indian to civilization that he is to be lifted up, but by taking civilization to him. One good road will do more for the civilization of a people than all of the outside boarding schools put together. I know that this will be challenged, but I believe it to be true. If local self-government is the foundation of the Republic, local education is its safety. If a people is to be fitted for a place in the body politic, it must be by influences working where it lives and moves and has its being. The child is father of the man, and the impressions gotten at the mother's knee give cast and character to after life. "As the twig is bent the tree's inclined," and the bending is in the home.

Mr. LACEY. Mr. Chairman, I would ask the gentleman the date of this address?

Mr. FITZGERALD. This was in October, 1904. The conference is during the month of October.

Mr. LACEY. At what time does he complain these transactions occurred? I know such complaint was made years ago, but of recent date we have not heard of it.

Mr. FITZGERALD. Here is his language, and I suppose it must apply to the present time, and that was why I was so much astonished, because if the Commissioner knew these things were occurring it seems to me it was his duty to stop these occurrences, and if he were unable to do it that is equally remarkable. He says:

> Here some 18,000 Indian children are lodged and fed and clothed and taught and are given all the comforts of life and many of its luxuries for nothing.

I understand that 18,000 is about the number now in the nonreservation and reservation boarding schools. He continues:

> I saw the other day, in a great metropolitan paper, a graphic account of the rounding up of children by the Indian police to take them away to school. It read like rounding up cattle for market, and another writer, who ought to know, speaks of the gathering of children to send to school as the ruthless tearing of babes from mothers' arms. In other papers I saw not long ago, a local one near a large Indian school expressed its satisfaction that the school was in full operation at the summer vacation. Why? Because it was for the good of the children? No; but because the parents of many of the pupils were wealthy and the children would have money to spend in the town near which the school was located.

The language of this address, if it be accurate, describes a deplorable condition. I am not convinced that the best way to educate and civilize the Indians is to bring them far distant from the reservations to the nonreservation schools. The system in operation in Carlisle, it is true, has many advantages over that in operation in other schools—the so-called "outing system"—but this amendment would not affect the Carlisle school, because the item for the Carlisle appropriation covers the cost of transportation. Even for the benefit of the Carlisle training I doubt if it be wise, where there is very special objection on the part of the parents, to take the children away from the reservation.

Mr. Chairman, during the past few years the Indian Department has largely been increasing the industrial features of the school work, and, I think, wisely. I have seen Indians who have been taken from homes of squalor, poverty, and filth and brought to these nonreservation schools and placed under conditions that would do credit to the finest college or school of any character, given the opportunities practically to obtain a liberal education, and yet when they returned to the reservation they would go back to the conditions which they left in order to attend the schools.

Mr. LACEY. Mr. Chairman, I will ask my friend if he does not think those students who return that way are exceptional at this time; if it is not true, while this criticism formerly had a good deal of force, that in recent years the Indians have carried civilization back with them to their homes instead of ordinarily returning to their old habits?

Mr. FITZGERALD. To some extent that is true, but the Indian naturally goes back to his home, to his parents and relatives, and the environment there has considerable effect upon him. My judgment is when Indians are educated on the reservations, even if they be in a boarding school, and are in closer touch with their parents and in touch with their daily life and work, the effect is much more marked and much more beneficial. This amendment is suggested more as a notice or warning to those charged with the duty of obtaining pupils that they should not get the children under conditions described by Commissioner Jones. Further, that it will be a step in the direction which our committee must soon consider—the question of discontinuing some of the nonreservation schools. There are now twenty-five nonreservation boarding schools, with a capacity of 7,500 pupils, and an average attendance of 8,166. That is about 30 per cent of the number of Indian children attending all schools.

As the reservations are opened up and as allotments are made it will be difficult to obtain this number of pupils for those schools, and as the Indians take their allotments it will be much better for all if the children attend schools right in the vicinity of their homes, because when the Indian takes an allotment he enters upon a different life, he tries to develop and improve his land, and the work that he does compels him to lead a life so different from his former life that he more readily receives impressions and derives benefits from observing the changed conditions in the children as a result of attendance at school.

If the condition described by the Commissioner is accurate, it is a serious reflection upon the administration of his own office. Something should be done to prevent a repetition of such practices. I am not so sure that this is the best thing to do. I know that on many reservations where there are boarding schools or where there are day schools, and where it would be beneficial for the children to attend such schools there has been difficulty in obtaining the consent of the parents, even for attendance at those schools. Yet I believe some provision should be made in this bill to prevent the practices pointed out by the Commissoner in his statement before the Mohonk conference.

Mr. SHERMAN. Mr. Chairman, only a word. I think the conditions the gentleman from New York complains of are exceptional and as a rule there are very few cases, I am sure, in which children are taken to any school except with the consent of their parents. To enact the legislation which the gentleman presents makes it compulsory in all cases to get the consent of its parents or guardian to bring an Indian to a school. Now, in the most cases where children are taken by force it is where they ought to be. It is where the parents insist on bringing them up in squalor and ignorance and laziness as they have been brought up themselves. There are such cases as that where, as guardians of those people, we ought to step in and by force put a stop to such conditions, but under the gentleman's amendment, if enacted into law, we could not do it. Now, it is very exceptional, in my judgment, where any wrong is done under the law as it now exists, and I do hope, Mr. Chairman, that the gentleman's amendment will not prevail.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from New York.

The question was taken; and the amendment was rejected.

The Clerk read as follows:

> That all expenditure of money appropriated for school purposes in this act shall be at all times under the supervision and direction of the Commissioner of Indian Affairs, and in all respects in conformity with such conditions, rules, and regulations as to the conduct and methods of instruction and expenditure of money as may be from time to time

prescribed by him, subject to the supervision of the Secretary of the Interior: *Provided*, That not more than $167 shall be expended for the annual support and education of any one pupil in any school herein specifically provided for, except when, by reason of epidemic, accident, or other sufficient cause, the attendance is so reduced or cost of maintenance so high that a larger expenditure is absolutely necessary for the efficient operation of the school affected, when the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may allow a larger per capita expenditure, such expenditure to continue only so long as the said necessity therefor shall exist: *Provided further*, That the total amount appropriated for the support of such school shall not be exceeded: *Provided further*, That the number of pupils in any school entitled to the per capita allowance hereby provided for shall be determined by taking the average enrollment for the entire fiscal year and not any fractional part thereof.

Mr. STEPHENS of Texas. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment which the Clerk will report.

The Clerk read as follows:

Amend by adding the following at the end of line 18, page 51:

"In the administration and disbursement of funds held in trust for the Indian tribes by the United States, that portion of the act approved June 7, 1897 (30 Stat., p. 79), which provides: 'And it is hereby declared to be the settled policy of the Government to hereafter make no appropriation whatever for education in any sectarian school,' shall apply; and from such trust funds, or interest thereon, held for the benefit of Indian tribes by the United States no funds shall be appropriated or used for purposes of education in any sectarian or denominational school."

Mr. SHERMAN. Mr. Chairman, I raise a point of order against the amendment. It is legislative. We must be through before 3 o'clock, and unless the gentleman wants to discuss the point of order, I insist upon it.

Mr. STEPHENS of Texas. Mr. Chairman, I presented to the Committee on Indian Affairs the same amendment, and it was objected to there by the chairman for the reason that he said no trust funds had been used in that way, and that therefore the amendment would not be necessary. I insisted that it was my information that trust funds had been and were being used for education of Indians at different parts of the United States in different denominational schools, I believe, mainly the Catholic schools. Since that time I have a statement from Mr. Leupp, the present Commissioner of Indian Affairs, to the effect that over $100,000 had been so used, and $2,000, I believe, of it had been used by some branch of the Methodist Church, and the rest for the Catholic Church.

Therefore I think this is germane, and I do not think it is subject to the point of order. It is a limitation upon this appropriation. I do not think that there is any question about that. We appropriate a great deal of money here year after year for Indian schools, and Congress has the right to limit in stating how it shall be used. As I understand it, Mr. Chairman, it has been the uniform practice of this House since 1892, when the law was enacted, that none of these Government funds should be used for denominational schools or sectarian schools. I find here that in the last year over $100,000 have been so used. I have a letter to that effect.

Mr. FITZGERALD. Mr. Chairman, if I understand the amendment, it extends these provisions of the existing law to other moneys. I think it is clearly legislation.

The CHAIRMAN. Does the gentleman from New York [Mr. SHERMAN] desire to be heard on the point of order raised by him?

Mr. SHERMAN. This provision presented by the gentleman from Texas [Mr. STEPHENS] is more than a limitation. In the first place, it is an attempt to construe a statute, and, in the second place, it refers to sums not appropriated in this bill. It refers to money in the Treasury of the United States belonging to the Indian tribes. It is not a limitation.

The CHAIRMAN. The Chair understands that the amendment offered by the gentleman from Texas [Mr. STEPHENS] relates to trust funds and not to money appropriated in the bill. It is not a limitation, but it does change existing law, and is not germane. Therefore the Chair sustains the point of order.

Mr. STEPHENS of Texas. Mr. Chairman, to simplify the matter I offer another amendment.

The CHAIRMAN. The gentleman from Texas [Mr. STEPHENS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 51, Indian appropriation bill (H. R. 17474), add the following:

"*Provided*, That no portion of Indian trust funds, nor the interest thereon, shall be expended for contract schools without the consent in writing of the Indians entitled to the same being first obtained."

Mr. SHERMAN. Mr. Chairman, I desire to raise a point of order against the amendment.

Mr. STEPHENS of Texas. Will the gentleman from New York [Mr. SHERMAN] permit me to make a few remarks on this question?

The CHAIRMAN. Does the gentleman from New York [Mr. SHERMAN] raise a point of order?

Mr. SHERMAN. I make a point of order. We must be through before 3 o'clock, and I must insist upon the point of order.

Mr. STEPHENS of Texas. I desire the courtesy from the gentleman to extend my remarks in the RECORD.

Mr. SHERMAN. Certainly.

The CHAIRMAN. The gentleman from Texas [Mr. STEPHENS asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The Chair sustains the point of order against the amendment.

Mr. STEPHENS of Texas. Mr. Chairman, I offer the following amendment at the end of line 18, page 51:

And provided further, That in the administration and disbursement of funds held in trust for the Indian tribes by the United States that portion of the act approved June 7, 1897 (30 Stat. L., p. 79) which provides "And it is hereby declared to be the settled policy of the Government to hereafter make no appropriation whatever for education in any sectarian school," shall apply; and from such trust funds or interest thereon held for the benefit of Indian tribes by the Government of the United States no funds shall be appropriated or used for purposes of education in any sectarian or denominational school.

Mr. Chairman, this amendment now offered by me here was offered in the committee before this bill was reported, and I was informed by the chairman that my information that trust funds of the Indians had been paid to sectarian schools was incorrect. I now desire to present a letter from the present Commissioner of Indian Affairs to myself, showing that my information was correct. It is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 11, 1905.

Hon. JOHN H. STEPHENS,
House of Representatives.

DEAR SIR: Your communication of the 10th instant is at hand. You say that to enable you to properly present some matters before the Indian Committee of the House of Representatives it is important that you have a statement showing the contracts entered into by the Government with various other organizations for the support of Indian contract schools, wherein it is proposed to expend Indian trust funds in the hands of the Government for the support of these schools during the present fiscal year. That it is desirable to have the name of each school and the name of the society receiving the appropriation, the Indian tribe whose funds are thus expended, and the amount of such expenditure, together with such other information as will enable you to properly present the matter before the committee.

In reply you are advised that I herewith append a statement giving the information requested:

Memorandum of contracts made with religious organizations for the fiscal year 1905.

Name of school.	Contracting party.	Tribal funds of—	Number of pupils.	Rate per capita.	Total amount of contract.
Zoar Boarding...	Board Lutheran Indian Missions.	Menominee	40	$108	$4,320
St. Joseph's.....	Bureau Catholic Indian Missions.	....do.....	170	108	18,360
St. Louis.....	....do.....	Osage.....	75	125	9,375
St. John's.....	....do.....	....do.....	65	125	8,125
Immaculate Conception.	....do.....	Sioux.....	65	108	7,020
Holy Rosary.....	....do.....	....do.....	200	108	21,600
St. Francis.....	....do.....	....do.....	250	108	27,000
St. Labre's.....	....do.....	North Cheyenne.	60	108	6,480
St. Mary's.....	....do.....	Quapaw.....	10	50	500
Total.....			935	.....	102,780

I trust that the above information will comply with your request.

Very respectfully,

F. E. LEUPP, *Commissioner.*

Mr. Chairman, I desire to present the following letter to the House from Bishop Hare, of Sioux Falls, S. Dak. It is as follows, viz:

SIOUX FALLS, S. DAK.,
January 5, 1905.

The facts which I am about to state seem to me to be of importance and of general interest.

1. About the year 1892 the Government of the United States gave public notice that the system by which contracts had been made by the Indian Department with missionary societies for carrying on boarding-school work among the Indian tribes would be discontinued; that no contracts would be made with new institutions, and that contracts with institutions already in existence would be reduced by a certain percentage each year until they entirely disappeared. As this contract system had been carried on consistently for some twenty years, this announcement of a change of policy caused great concern among missionary societies, but after considerable discussion it was officially and publicly approved by almost all of them. The principle thus announced by the Government was not considered, however, as inconsistent with the receipt by mission boarding schools of the rations and annuities which the Indian children in those boarding schools would have received had they been living in camp.

2. August 23, 1901, the Commissioner of Indian Affairs sent out instructions to Indian agents as follows: "You are directed not to issue

rations or anything whatever to any child attending a mission boarding school whether it is entitled to rations at home or not." It will be remarked that this notice was not sent out from Washington until August 23. It did not reach the Indian country until many days later—in other words, not until the mission boarding schools had made all arrangements, after the summer vacation, for continuing their work, with full expectation that rations and annuities would be continued as before. So extreme, so peremptory, seems to have become the Commissioner's sense of the clear and imperative will of the Government.

The pecuniary embarrassment and anxiety which this order occasioned mission boarding schools was, of course, extreme. Expostulations were sent by the mission boarding schools to the Commissioner of Indian Affairs, but his answer was:

"Congress has not only made no provision for furnishing of rations and provisions to sectarian schools after July 1, ultimo, but has distinctly declared that it is to be the settled policy of the Government to hereafter make no appropriation whatever for education in any sectarian school. The Department has no discretion whatever in this matter of issuing rations or clothing or anything else to sectarian schools. The spirit as well as the letter of the law must be carried out by agents."

It was urged that when rations and annuities had reached the Indian country and a parent who had a child in a mission boarding school consented that that child's fair share of the rations for his family should be turned over to the said mission school compliance with his wish could not fairly be held to be "an appropriation to a sectarian school." I ventured to present this view of the case to the Commissioner of Indian Affairs. He rejected it. I then carried the case to the Secretary of the Interior. He upheld the decision of the Commissioner. I then took the matter up to the President, who referred the matter to the Attorney-General, Mr. Knox. Mr. Knox's opinion read, in part, as follows:

"Congress has furthermore provided in the act of June 7, 1897 (30 Stat. L., 79), that it is 'the settled policy of the Government to hereafter make no appropriation whatever for education in any sectarian school,' and by act of March 1, 1899 (30 Stat. L., 942), contracts were authorized with sectarian schools at places where nonsectarian schools can not be provided for Indian children, and after providing for an equitable division of such appropriation between schools of the different denominations, Congress adds: 'This being the final appropriation for sectarian schools.' While these provisions may only refer to direct appropriations to sectarian schools, yet the issuance of rations to them for the benefit of Indian children in their care would certainly offend the spirit of the acts of Congress last cited, for in saving the necessary expense of maintenance it would have the beneficial effect of a direct appropriation. I am therefore of opinion that the Commissioner of Indian Affairs, who must respect the settled policy of the Government as thus declared by Congress, has no authority to grant Bishop Hare's application."

This opinion was sent to me by the President as his answer to my appeal. This, of course, finally settled the case. What its effect upon the school work of other missionary societies was, I can only imagine. In regard to my own boarding-school work, it made it necessary to give up entirely two of the mission boarding schools—namely, St. Paul's, Yankton Agency, and St. John's, Cheyenne River Reserve—and aggregate upon the two remaining boarding schools all the boarding-school funds which I could command. I was ultimately driven to sell St. Paul's School for about half its value and St. John's for about one-tenth of its value. The only comfort lay in the fact that the highest executive officers of the Government seemed to have been driven to a seemingly pitiless act by a high and imperative sense of public duty, that public duty being not to use funds in the hands of the Government for denominational schools.

I have gone into some detail in making this statement in order that the fact may definitely appear that the Government officials (Hon. W. A. Jones, Commissioner; the Hon. E. A. Hitchcock, Secretary of the Interior; the Hon. Theodore Roosevelt, President of the United States, under advice of the Attorney-General, the Hon. P. C. Knox) reached and avowed the opinion after much discussion and despite the great hardship that this conclusion brought upon missionary effort—that it was the settled policy of the Government not to use the money intrusted to it in aid of any denominational school—not even a fraction of the rations in the charge of an Indian agent could, at the request of the head of a family, be set apart for the use of his child if that child was in a denominational school! Let me repeat: This policy, viz. that mission boarding schools must care for themselves and not look for aid from the Government of the United States, was adopted in 1892 after prolonged discussion; its operation was then extended in its range by regularly graduated steps from year to year; it was made in 1902 to include rations as well as money; and this final interpretation and application of the policy was persisted in and put into effect by the Commissioner of Indian Affairs, upheld by the Secretary of the Interior, and justified by the President of the United States.

3. Imagine my surprise, therefore, on discovering last September that the same executive officers who had declared this to be the policy of the Government and had administered the policy with inexorable suddenness and severity had been making large contracts for the conduct of mission boarding schools! On the spur of the moment it seemed to me that I might ease my pecuniary burdens by securing such a contract for my mission boarding schools, and I wrote to the Hon. W. A. Jones, Commissioner of Indian Affairs, asking for information. He replied: "These contracts were entered into pursuant to a petition filed in the House by the Indians of the several reservations, the expense to be paid out of trust funds now to their credit in the Treasury of the United States." In answer to a second letter, he wrote me: "I do not think it is necessary for you to secure the consent, or even to have a request made for the tribe, for the purpose of entering into a contract for your boarding school."

My eyes began to be opened, not to say to stare. I recalled the whole history of the action of the Government in regard to denominational schools as rehearsed above. I wrote to three or four Protestant missionary societies and learned that their amazement was equal to my own. I next discovered that these contracts numbered, in all, nine, and that eight had been made with one denomination, and that of the total amounts of the contracts, viz, $102,780, all but $4,320 was for the benefit of one denomination. See below.

I happen to have missionaries in the Indian country who have been moving about familiarly among the people there for from fifteen to thirty years and who are thoroughly familiar with the Indian language. I addressed inquiries to these and others and learned that the petitions for these contracts were gotten up so quietly that they were entirely unheard of by them and a large number of Indians for months afterwards, and that many of the Indians who signed them did not know what the petition meant.

I received copies of the petitions sent in from different tribes. I found the petitions to be all in practically the same language, and language which the natives would not have used. They are signed by women as well as men. About two-thirds of the signers merely attached their mark. The whole number of signers is a very small fraction of the tribes concerned; in one case 150 signers in a tribe of 5,000 Sioux. Yet the contracts are to be paid out of tribal funds!

4. Such action as that which I have recounted seems to be calculated to overthrow all faith in the consistent and continuous action of our Government and to arouse suspicion that equal dealing with the religious bodies of the land by the Government can not be confidingly relied upon. It seems also to indicate that the executive officers of the Government hold that the executive department of the Government may, as trustee, use trust funds without regard either to the wishes of the beneficiaries or to the will of Congress.

WILLIAM H. HARE, *Missionary Bishop.*

List of contracts made by United States Indian Office with various sectarian organizations for the education of Indian children from tribal funds for the fiscal year ending June 30, 1905.

Name of school.	Denomination.	Number of pupils.	Tribe.	Rate per annum.	Total for year.	Agency.
St. Joseph	Roman Catholic	170	Menominee	$108	$18,360	Green Bay.
St. Louis	do	75	Osage	125	9,375	Osage.
St. John's	do	65	do	125	8,125	Do.
Immaculate Conception	do	65	Sioux	108	7,020	Crow Creek.
Holy Rosary	do	200	do	108	21,600	Pine Ridge.
St. Francis	do	250	do	108	27,000	Rosebud.
St. Labre's	do	60	North Cheyenne	108	6,480	Tongue River.
St. Mary's	do	10	Quapaw	50	500	Quapaw.
Foss Boarding	Lutheran	40	Menominee	108	4,320	Green Bay.
Total		935			[a]102,780	

[a] These tribal funds are the result largely of appropriations by Congress.

Mr. Chairman, I will now present the petitions and letters referred to by Bishop Hare:

PINE RIDGE, S. DAK., *January 12, 1905.*

S. M. BROSIUS, *Washington, D. C.*

DEAR SIR: Judge Fast Horse and Philip Robinson, of this agency, wish to have the following items known, and they may be incorporated with the petition recently forwarded to you:

1. Three Spaniards, who have no rights on this reservation or to the Sioux funds, were included in the Roman Catholic petition for school contract with the Government.

2. Hawk Charging Daylight, Little Cloud, Flat Iron, and Ribs say that their names were added to the Roman Catholic petition without their knowledge or consent.

3. When the Roman Catholics were getting signers to their petition they gave each one who signed a loaf of bread.

4. Both the names of man and wife were signed, the women as well as the men.

5. We consider that the money given on this contract should be considered as a debt to be paid back by those who signed, and that nothing from our trust funds should be paid to them until they have made good the amount paid on the contract in question.

They ask that these points may be considered by those having the matter in charge.

Respectfully,

JOSEPH FAST HORSE.
JOHN BLACK FOX.
CHAS. KING.
JOHN BESSONETTE.
JAMES LITTLE CHIEF.
WM. O. M. HORSES.
ASAY PUMPKIN SEED.
PAUL HAWK.

CROW CREEK, S. DAK., *January 12, 1905.*

To the Congress of the United States:

A petition has been signed by a few of the Indians of this agency, asking that the Roman Catholic School on this reservation be helped from our tribal funds; but a large majority of the people are opposed to this use of our money.

We, the undersigned, members of the Crow Creek tribe, appeal to you

to have such action taken as will prevent our funds being used in this way.

Thomas W. Tuttle, Joseph Irving, Arthur W. Pratt, John Ear, Moses Bighawk, John Saul, Groves St. John, Fred Medicine Crow, Luke Black Bear, John Wizl, Rufus Day, Henry Long Feather, Odd Face, Louis Fire, Jay Carpenter.

CROW CREEK INDIAN RESERVATION, S. DAK., *November 26, 1904.*

The INDIAN RIGHTS ASSOCIATION, *Philadelphia, Pa.*

DEAR FRIENDS: We hear that the Government has contracted with the Roman Catholic Religious Society to use the tribal funds for Roman Catholic schools. We, the signers to this petition, are members of the Crow Creek Indian tribe mentioned, and as such are entitled to a share of all tribal funds held in trust by the Government. We are not Roman Catholics. We most strongly object to the use of our shares of tribal funds for the support of Roman Catholic schools. We ask you as our friends to do what you can to prevent taking shares of the tribal fund for the purpose mentioned. We look to you to help protect us.

Respectfully, HENRY LONG FEATHER (And 105 others).

ROSEBUD AGENCY, S. DAK., *January 12, 1905.*

To the Congress of the United States.

GENTLEMEN: We, members of the Sioux tribe of Indians having rights and residing on the Rosebud Reservation, appeal to you to assist us in preventing the paying out of our tribal trust funds or the interest of the same for the support of any denominational or mission schools. Nearly every man of our tribe is opposed to the plan of using our trust funds to pay any such contracts as we hear have been made, and we urgently and respectfully petition you to cancel and stop all that business at once.

With great respect, very truly, yours,

Ralph Eaglefeather, carpenter; Jesse Wright, ranchman; Henry Horse Looking, harness maker; James Small Bear, laborer; William J. Baeker, assistant clerk; E. E. Jordan, Indian trader; J. McKenzie, clerk at store; Samuel Bordeaux, printer; Wm. F. Schmidt, issue clerk.

ROSEBUD, S. DAK., *December 5, 1904.*

The President of the Indian Rights Association, Philadelphia, Pa.

DEAR SIR: We, members of the Sioux tribe of Indians, having rights and residing on the Rosebud Reservation, appeal to you to aid us in trying to prevent the paying out of our tribal trust funds, or interest of the same, by the Government for the support of Roman Catholic mission schools. For three months we have been trying to arouse the friends of the Indians in our behalf to oppose the unjust contracts made with the "Catholic Bureau of Indian Missions." We write and appeal to you on behalf of the great majority of the people of this tribe.

REUBEN QUICK BEAR, *President Rosebud Indian Council.*
CHARLES T. TACKETT, *Interpreter and Ranchman.*
SAMUEL BORDEAUX, *Printer at Agency.*
WM. F. SCHMIDT, *Clerk at Agency.*
RALPH EAGLE FEATHER, *Carpenter at Agency.*
JOHN T. (his x mark) HENRY, *Missionary Helper.*
GEORGE ROGERS, *Clerk in Store.*

Mr. Chairman, I will now present to the House letters from Mr. S. M. Brosius, of this city, which are self-explanatory; also petitions of various Sioux Indians, protesting against the use of their trust funds. They are as follows:

WASHINGTON, D. C., *January 19, 1905.*

Hon. JOHN H. STEPHENS, *House of Representatives.*

SIRS We inclose a petition from the Oglala band of Sioux Indians, located at Pine Ridge Agency, S. Dak., signed by 442 members of the tribe, protesting against the use of their trust funds for support of sectarian contract schools without their consent being first obtained. A petition requesting that such funds be used for the purpose named was filed with the Indian Office and signed by 165 persons, and, many of these, as you will see by the inclosed statement from the Indians, are alleged to have no rights with the tribe. The further statement is made that not over 10 per cent of these Indians are in favor of such use of their trust funds.

We also file statement from certain of these Indians giving pertinent facts in relation to the manner of securing names to petition favoring the use of trust funds, which was filed with the honorable Commissioner of Indian Affairs.

We also file, inclosed, protests from the Crow Creek and Rosebud bands of Sioux Indians in opposition to such use of their funds. With these are filed additional protests, the originals of which have already been forwarded to the Indian Office.

We also inclose a statement by Right Rev. W. H. Hare, bishop of South Dakota, dated the 5th instant, showing the inconsistency of the Executive in the use of trust funds, etc.

Also find inclosed a copy of letter addressed by the Hon J. S. SHERMAN, chairman of the Committee on Indian Affairs, House of Representatives, to the Hon J. H. KETCHAM, which indicates that Mr. SHERMAN does not understand our position upon the question of the expenditure of Indian trust funds for sectarian contract schools. We hold that such funds should not be arbitrarily used for certain sectarian schools without the consent of the individual Indian whose funds it is proposed to use; so that the funds due a Protestant Indian shall not be taken arbitrarily for the support of a Roman Catholic school, or otherwise.

We also inclose two forms of a clause that you may consider in connection with desired legislation to prohibit the further use of trust funds in the manner stated. The short form would apparently meet with the approval of Chairman SHERMAN.

Very respectfully,

INDIAN RIGHTS ASSOCIATION.
By S. M. BROSIUS, *Agent.*

WASHINGTON, D. C., *January 21, 1905.*

Hon. JOHN H. STEPHENS, *House of Representatives.*

SIR: I inclose an additional protest from 42 members of the Pine Ridge band of Sioux Indians, South Dakota, remonstrating against the use of their trust funds by the Government for the support of contract sectarian schools, making the total number who have protested 484, while only 165 asked the Indian Office to use their funds in this manner. I am reliably informed that not over 10 per cent of the Pine Ridge Indians favor this plan of using their trust funds to support sectarian contract schools.

The same conditions exist at Crow Creek Agency, S. Dak. While 53 persons signed a petition to the Indian Office asking for such use of their funds, 106 have entered protest against it, every one of whom sign their names, while those asking for such application of funds chiefly sign by mark, showing that the intelligent members of the tribe are opposed to such manipulation of their trust funds. To be more definite, out of the 53 favoring the plan, 42 sign their names by mark.

At Rosebud Agency, S. Dak., the intelligent members of the tribe, on behalf of a large majority of the tribe, vigorously protest against this use of their funds. Likewise, the Menominees at Green Bay Agency, Wis., make protest against this use of their trust funds.

In fact, wherever the Indians have been apprised that their trust funds are being used by the Indian Department for support of sectarian contract schools they have protested against the same. The manipulation of their funds in this manner has been done so quietly that the Indians have been unaware until quite recently that such action was being taken by the Department.

It was hoped that the act of Congress prohibiting the use of public funds for the support of sectarian contract schools would end this religious agitation. The arbitrary action of the President, however, in directing that Indian trust funds be used for such purpose is manifestly more objectionable, and will be provocative of intense religious animosities within the Indian tribes.

Such use of trust funds without the consent of the Indians must be viewed by an impartial observer as a breach of trust by the Government, and the large discretionary power vested in the Executive by agreements with the various Indian tribes, under which it is claimed the expenditure of the Indian trust money is warranted, renders such moneys quasi-public moneys of the United States, and prohibited by law. I trust you will be able to secure legislation that will prohibit the further use of Indian trust funds for sectarian contract schools unless the Indians first agree to such expenditures.

Such expenditures should be prohibited altogether if there is any opposition to it, since the rights of a minority of any tribe should not be infringed upon in this manner if a majority are inclined to favor it. May there not be a serious question of constitutional right involved in this controversy?

Very respectfully, S. M. BROSIUS, *Agent Indian Rights Association.*

ROSEBUD, S. DAK., *December 6, 1904.*

The President of the Indian Rights Association, Philadelphia, Pa.

MY DEAR SIR: Knowing that the Indians here are protesting vigorously against the contracts made by the honorable Commissioner of Indian Affairs with the Catholic Bureau of Indian Missions, involving the paying out of the interest of their trust funds for the support of St. Francis School and other Roman Catholic schools, we are constrained to write you some of the reasons given by white people here for the immediate canceling of such contracts by the proper authorities.

We have an impression that Congress decided there should be no more such contracts with mission schools. Whether so or not, we think that the trust funds of the Indians should not be devoted by Government to paying the expenses of any mission schools unless, upon the special request of the parents or legal guardians, the fairly proportionate share of any family be given for the support of their children at some school designated by them. We have not at hand the exact figures in the case, but we believe that only about $15,000 per annum is available of the trust funds of these Rosebud Indians for the purpose of education. That would give an average of about $15 for each child of school age and fit to attend school. How is it, then, we ask, that the honorable Commissioner thinks it possible to allow St. Francis School $108 per pupil? Whence does he expect to draw this magnificent allowance?

If the allowance of $27,000 for St. Francis School per annum is in excess, as it seems, of the annual interest of these people's money available for education by the sum of $12,000, whence is to come this excess? For the 250 pupils supposed to be in attendance at St. Francis the greatest reasonable allowance from trust funds would probably be less than $4,000—even if the parents wished the money so used.

Let all the Indians and all schools, we say, be fairly and equitably dealt with in the administration of their trust funds. The people here are surprised and shocked to learn that the St. Francis (Mission) School was for a great many years previous to 1900 supported out of the interest of their tribal funds. They all realize that if that plan is followed all other schools are handicapped in the work of educating their children. Can the United States Government afford to appear as a partisan in the aid and comfort which it gives to mission work of any kind?

Above are some very pertinent questions which, we think, call for reply at once and suitable action on the part of Government officials.

Respectfully and faithfully, yours,

AARON B. CLARK, *Missionary.*
JAMES F. CROSS, *Missionary.*

ROSEBUD AGENCY, S. DAK., *December 5, 1904.*

The President of the Indian Rights Association, Philadelphia Pa.

DEAR SIR: We, members of the Sioux tribe of Indians, having rights and residing on the Rosebud Reservation, appeal to you to aid us in trying to prevent the paying out of our tribal trust funds, or interest of the same, by the Government for the support of Roman Catholic mission schools. For three months we have been trying to arouse the friends of Indians in our behalf to oppose the unjust contracts made

with the "Catholic Bureau of Indian Missions." We write and appeal to you on behalf of the great majority of the people of this tribe.

Very truly, yours,

REUBEN QUICK BEAR,
President of Rosebud Indian Council.
CHARLES C. TACKETT,
An Interpreter and Ranchman.
SAMUEL BORDEAUX,
Printer at Agency.
WM. F. SCHMIDT,
Clerk at Agency.
RALPH EAGLE FEATHER,
Carpenter at Agency.
JOHN T. (his x mark) HENRY,
Missionary Helper.
GEORGE ROGERS,
Clerking in Store.

PINE RIDGE RESERVATION, S. DAK.,
December 28, 1904.

To the Congress of the United States:

We, the undersigned, are members of the Oglala or Pine Ridge Reservation Sioux Indians, South Dakota.

We have heard with much surprise that the Government is using, or proposes to use, a part of our tribal trust funds in support of Roman Catholic schools among our people. We strongly protest against the use of our shares of the trust moneys for that purpose. We are not Roman Catholics, and we feel very strongly that it is an injustice to compel us to support Roman Catholic schools. We say, let the Roman Catholic Indians support the Roman Catholic schools.

We ask you to see that justice is done to us in this matter. A great majority of our tribe is opposed to using their share of the tribal funds for this purpose.

Respectfully,

WM. LARVIE,
(And 41 others).

CROW CREEK INDIAN RESERVATION, S. DAK.,
November 26, 1904.

The Indian Rights Association, Philadelphia, Pa.

DEAR FRIENDS: We hear that the Government has contracted with the Roman Catholic Religious Society to use the tribal funds for Roman Catholic schools. We, the signers to this petition, are members of the Crow Creek Indian tribe mentioned, and as such are entitled to a share of all tribal funds held in trust by the Government. We are not Roman Catholics. We most strongly object to the use of our shares of tribal funds for the support of Roman Catholic schools. We ask you as our friends to do what you can to prevent taking shares of the tribal fund for the purpose mentioned. We look to you to help protect us.

Respectfully,

HENRY LONG FEATHER,
(And 105 others).

PINE RIDGE AGENCY, S. DAK.,
December 28, 1904.

To the Congress of the United States:

We, the undersigned, are members of the Ogala, or Pine Ridge Reservation, Sioux Indians, South Dakota. We have heard with much surprise that the Government is using or proposes to use a part of our tribal trust funds in support of Roman Catholic school among our people. We strongly protest against the use of our shares of the trust money for that purpose. We are not Roman Catholics, and we feel very strongly that it is an injustice to compel us to support Roman Catholic school. We say, let the Roman Catholic Indians support the Roman Catholic school. We ask you to see that justice is done to us in this matter. A great majority of our tribe is opposed to using their share of the tribal funds for this purpose.

Respectfully,

GEO. F. THUNDER,
(And 44 others).

PINE RIDGE, S. DAK., *January 2, 1905.*

To the President of the United States:

We, the undersigned, ordained ministers of the Gospel and for many years resident missionaries among the Sioux Indians of the Pine Ridge Reservation, S. Dak., respectfully ask your attention to the accompanying petition from members of our several congregations and others whose interests are involved.

This petition relates to a contract made by the Government with the Roman Catholic school on this reservation, providing for assistance to that school out of the trust funds of the petitioners, none of whom are willing that their share of the tribal funds should be so used.

We are convinced that if this proposition were explained to the Indians concerned in it on this reservation, and the question submitted to them, not more than 10 per cent of them would vote in its favor.

Will you not kindly see that justice is done to them in this matter?

Respectfully,

WM. J. CLEVELAND,
Protestant Episcopal.
A. F. JOHNSON,
Presbyterian Church.
AMOS ROSS,
Protestant Episcopal.
ISAAC H. TUTTLE,
Protestant Episcopal.

The above letter, though addresed to the President, is intended for the Congress of the United States also.

WM. J. CLEVELAND.

PINE RIDGE RESERVATION, S. DAK.,
December 28, 1904.

To the Congress of the United States:

We, the undersigned, are members of the Oglala, or Pine Ridge Reservation, Sioux Indians, South Dakota.

We have heard with much surprise that the Government is using, or proposes to use, a part of our tribal trust funds in support of Roman Catholic schools among our people. We strongly protest against the use of our shares of the trust moneys for that purpose. We are not Roman Catholics, and we feel very strongly that it is an injustice to compel us to support the Roman Catholic schools.

We ask you to see that justice is done to us in this matter. A great majority of our tribe are opposed to using their share of the tribal funds for this purpose.

Respectfully,

GEORGE SWORD
(And 11 others).

PINE RIDGE RESERVATION, S. DAK.,
December 28, 1904.

To the Congress of the United States:

We, the undersigned, are members of the Oglala or Pine Ridge Reservation Sioux Indians, South Dakota.

We have heard with much surprise that the Government is using, or proposes to use, a part of our tribal trust funds in support of Roman Catholic schools among our people. We strongly protest against the use of our shares of the trust moneys for that purpose. We are not Roman Catholics and we feel very strongly that it is an injustice to compel us to support Roman Catholic schools. We say, let the Roman Catholic Indians support the Roman Catholic schools.

We ask you to see that justice is done to us in this matter. A great majority of our tribe is opposed to using their share of the tribal funds for this purpose.

Respectfully,

JOHN SITTING BEAR,
(And 129 others).

PINE RIDGE RESERVATION, S. DAK.,
December 28, 1904.

To the Congress of the United States:

We, the undersigned, are members of the Oglala or Pine Ridge Reservation Sioux Indians, South Dakota.

We have heard with much surprise that the Government is using, or proposes to use, a part of our tribal trust funds in support of Roman Catholic schools among our people. We strongly protest against the use of our shares of the trust moneys for that purpose. We are not Roman Catholics, and we feel very strongly that it is an injustice to compel us to support Roman Catholic schools. We say, let the Roman Catholic Indians support the Roman Catholic schools.

We ask you to see that justice is done to us in this matter. A great majority of our tribe is opposed to using their share of the tribal funds for this purpose.

Respectfully,

THOMAS JUMPING BULL,
(And 76 others).

PINE RIDGE RESERVATION, S. DAK.,
December 28, 1904.

To the Congress of the United States:

We, the undersigned, are members of the Oglala or Pine Ridge Reservation Sioux Indians, South Dakota.

We have heard with much surprise that the Government is using, or proposes to use, a part of our tribal trust funds in support of Roman Catholic schools among our people. We strongly protest against the use of our shares of the trust moneys for that purpose. We are not Roman Catholics and we feel very strongly that it is an injustice to compel us to support Roman Catholic schools. We say, Let the Roman Catholic Indians support the Roman Catholic schools.

We ask you to see that justice is done to us in this matter. A great majority of our tribe is opposed to using their share of the tribal funds for this purpose.

Respectfully,

ELI (his x mark) HEDOG
(And 60 others).

PINE RIDGE RESERVATION, S. DAK.,
December 29, 1904.

To the Congress of the United States:

We, the undersigned, are members of the Oglala or Pine Ridge Reservation Sioux Indians, South Dakota. We have heard with much surprise that the Government is using, or proposes to use, a part of our tribal funds in support of Roman Catholic schools among our people. We strongly protest against the use of our shares of the trust moneys for that purpose. We are not Roman Catholics, and we feel very strongly that it is an injustice to compel us to support Roman Catholic schools. We say, Let the Roman Catholic Indians support the Roman Catholic schools.

We ask you to see that justice is done to us in this matter. A great majority of our tribe is opposed to using their share of the tribal funds for this purpose.

Respectfully,

ASAY PUMPKIN SEED
(And 125 others).

Mr. Chairman, I present the following letters from missionaries and others connected with Indian schools and missionary work:

THE AMERICAN BAPTIST HOME MISSION SOCIETY,
New York, January 6, 1905.

Hon. JOHN H. STEPHENS,
House of Representatives, Washington, D. C.

MY DEAR SIR: On behalf of the society which I have the honor to represent, the American Baptist Home Mission Society, with a constituency of about a million in the Northern and Western States, I write to express our gratification that you have taken the initiative in the endeavor to have incorporated in the new Indian appropriation bill a clause prohibiting the application of either the principal or the interest of trust funds held by the Government for the Indians toward the support of sectarian or denominational schools. We hope that the wisdom of this measure will commend itself to the members of your committee and of the House of Representatives, inasmuch as it is the only way to prevent gross abuses in the administration of such funds.

In a recent communication to President Roosevelt on this subject the executive board of this society adduced the following reasons against such use of the funds held in trust by the Government:

"1. The United States Government having discontinued aid from its own funds for the maintenance of Indian schools under sectarian control should not consent to such appropriation from trust funds held by it for the Indians.

"2. If this new method of promoting the work of sectarian schools were to become the settled policy of the Government it would open the door to an unseemly scramble on the part of religious bodies, with possible lobbyists at Washington for as large a share as possible of these trust funds.

"3. Such a course would also tend to division and strife among the Indians themselves where two or more denominations are represented, as sectarian efforts might be made to secure for one or the other the largest possible appropriation. Indeed, the clear indications are that the requests from these tribes for the appropriation of their money have been secretly worked up by representatives of the body in whose interests chiefly the appropriations have been made, no formal action by a majority of the Indians properly convened having been taken, in some instances apparently a minority surreptitiously securing the grant for their benefit.

"4. To apply trust funds held either for the individual members of a tribe or for the general good of the whole tribe to such sectarian purposes upon the request of certain members thereof is to divert them from their proper use and to work an injustice to the remainder of the tribe by impairing the amount available for the tribe as a whole."

I assure you that favorable action by your committee upon this subject would be hailed with the greatest satisfaction by all who believe that the Government should not either directly or indirectly have entangling alliance at variance with its settled policy in the administration of these Indian trust funds. I am sending to Hon. JAMES S. SHERMAN, chairman of the Indian Committee, a communication almost identical with yours save in the introductory portions thereof.

Hoping soon to learn of favorable action by your committee, I remain,

Respectfully, yours,

H. L. MOREHOUSE,
Corresponding Secretary.

AMERICAN MISSIONARY ASSOCIATION,
New York, January 7, 1905.

Hon. JOHN H. STEVENS,
House of Representatives, Washington, D. C.

DEAR SIR: I have the honor to inclose herewith copy of a letter addressed to the Hon. JAMES S. SHERMAN, chairman of the House Indian Committee. I take the liberty of sending this to you counting upon your sympathy and aid in the accomplishment of our desire.

With high regard, I am, very respectfully, yours,
JAMES W. COOPER, *Corresponding Secretary.*

AMERICAN MISSIONARY ASSOCIATION,
New York, January 6, 1905.

Hon. JAMES S. SHERMAN,
Chairman Indian Committee, House of Representatives, Washington, D. C.

DEAR SIR: We are informed that in the new Indian appropriation bill, now in the hands of the House Indian Committee, there is a provision to the effect that the settled policy of the Government to hereafter make no appropriation whatever for education in any sectarian school shall apply to the administration and disbursement of funds held in trust for the Indian tribes by the United States, and that from such trust funds or interest thereon no funds shall be appropriated or used for purposes of education in any sectarian or denominational school.

The American Missionary Association, in the name of the Congregational churches of the United States, has expended many hundreds of thousands of dollars for educational work among the Indians of the United States, and is still carrying forward its schools and missions among these people. As corresponding secretary of this society, I desire to urge upon you and the Indian Committee that the above provision be incorporated in the appropriation bill, with the earnest hope that it may be adopted by the House of Representatives.

With high esteem, I have the honor to be,

Very respectfully, yours,
JAMES W. COOPER, *Corresponding Secretary.*

INDIAN TRUST FUNDS FOR SECTARIAN SCHOOLS—THE STATUTE PROHIBITING APPLICATION OF PUBLIC MONEYS FOR SUPPORT OF SECTARIAN SCHOOLS IGNORED BY THE GOVERNMENT IN EXPENDING INDIAN TRUST FUNDS THEREFOR—THE INDIANS PROTEST.

INDIAN RIGHTS ASSOCIATION, 1305 ARCH STREET,
Philadelphia, January 12, 1905.

As a result of the spirited controversy a few years ago, it was generally believed that the question of Government appropriation for sectarian contract schools among our Indian tribes was abandoned, and that there would be no further need of legislation upon the subject. The various church and missionary organizations agreed to support their schools, open to Indian pupils, without Government aid. This policy was cheerfully accepted by most of the Protestant churches, but opposed by the Roman Catholic authorities.

Congress passed an act, approved June 7, 1897, which was declaratory of the Government's policy in this respect, as follows:

"And it is hereby declared to be the settled policy of the Government to hereafter make no appropriation whatever for education in any sectarian school."

It was supposed that this was to be the future policy of the Government. During the past summer, however, contracts were made, by direction of the President, whereby certain sectarian mission schools were to be supported from Indian trust funds.

So far as can be ascertained these contracts, which went into effect July 1, 1904, are as follows: [a]

All the above contracts provide for support of Roman Catholic schools excepting the last, which is a Lutheran school.

The statute prohibits the use of public funds for the support of sectarian schools, as shown heretofore. The law does not, however, specifically state that trust funds belonging to the various Indian tribes, on deposit in the United States Treasury, shall not be so expended.

The treaties and agreements made with our Indian tribes have usually given large discretionary power to the Secretary of the Interior in applying the beneficial provisions for the aid and support of the Indians. Advantage of this discretionary power vested in the Executive Department has been taken through the efforts of the church interested and an order secured whereby these trust funds may be paid over for the support of its denominational schools, as already shown. While the authority given will apply to all denominations, the Roman Catholic Church is the one most interested and the one which has profited chiefly under the new order, having secured about 98 per cent of the amounts so far awarded. Most of the other church missionary boards accepted the established policy of the Government and do not now desire to have that policy changed.

The Government has ample facilities for affording educational opportunities for the Indian youth not otherwise provided for, and there does not now exist a need for calling upon any outside organization or church to supply a temporary lack of equipment for school purposes.

A generation ago the Government invited the various church organizations to take up the work of christianizing the Indians by establishing missions among them, and continues that policy at the present time. Thousands of Indians are to-day communicants in the various Protestant churches located within the various reservations. The Executive now directs that the undivided shares of the tribal funds due to these Indians be expended under contract for sectarian schools, and this without the consent of the Indians interested.

When the Indians whose funds are being thus diverted ascertained the facts, they appealed to the Indian Rights Association, vigorously protesting against the injustice, claiming that in thus misappropriating their shares of the tribal funds a gross breach of faith had been committed by their guardian, the Government, in which view of the case this association accords.

Many of the tribes have protested against this unjust and arbitrary application of their funds. The Rosebud Indians present the following protest signed by representative members of their tribe, showing that the intelligent Indians resent the action of the Government:

ROSEBUD AGENCY, S. DAK., *December 5, 1904.*

The President of the Indian Rights Association, Philadelphia, Pa.

DEAR SIR: We, members of the Sioux tribe of Indians having rights and residing on the Rosebud Reservation, appeal to you to aid us in trying to prevent the paying out of our tribal trust funds, or interest of the same, by the Government for the support of Roman Catholic mission schools. For three months we have been trying to arouse the friends of Indians in our behalf to oppose the unjust contracts made with the Catholic Bureau of Indian Missions. We write and appeal to you on behalf of the great majority of the people of this tribe.

REUBEN QUICK BEAR,
President of Rosebud Indian Council.
CHARLES C. TACKETT,
Interpreter and Ranchman.
SAMUEL BORDEAUX,
Printer at Agency.
WM. F. SCHMIDT,
Clerk at Agency.
RALPH EAGLE FEATHER,
Carpenter at Agency.
JOHN T. (his x mark) HENRY,
Missionary Helper.
GEORGE ROGERS,
Clerking in Store.

A communication received by the association from the Rev. Aaron B. Clark and Rev. James F. Cross, missionaries within the Rosebud Reservation, gives an intelligent statement, which shows that this perversion of the trust funds of the Indians works an injustice to those who do not agree thereto. It should be remembered in this connection that no consent has been secured from the Indians that has any legal weight, from the fact that no council was called to secure such consent; a majority have not petitioned and the petition requesting such payment is not properly authenticated; in fact, so far as understood, it is not now contended that the action of the Government in the payment of trust funds in the manner indicated is based upon the consent of the Indians properly obtained.

The letter from Messrs. Clark and Cross follows:

ROSEBUD, S. DAK., *December 6, 1904.*

The President of the Indian Rights Association, Philadelphia, Pa.

MY DEAR SIR: Knowing that the Indians here are protesting vigorously against the contracts made by the honorable Commissioner of Indian Affairs with the "Catholic Bureau of Indian Missions," involving the paying out of the interest of their trust funds for the support of St. Francis School and other Roman Catholic schools, we are constrained to write you some of the reasons given by white people here for the immediate canceling of such contracts by the proper authorities.

We have an impression that Congress decided there should be no more such contracts with mission schools. Whether so or not, we think that the trust funds of the Indians should not be devoted by the Government to paying expenses of any mission school, unless, upon the special request of the parents or legal guardians, the fairly proportionate share of any family be given for the support of their children at some school designated by them. We have not the exact figures in the case at hand, but we believe that only about $15,000 per annum is available, of the trust funds of these Rosebud Indians, for the purpose of education. That would give an average of about $15 for each child of school age and fit to attend school. How is it then, we ask, that the honorable Commissioner thinks it possible to allow St. Francis School $108 per pupil? Whence does he expect to draw this magnificent allowance?

If the allowance of $27,000 for St. Francis School per annum is in excess—as it seems—of the annual interest of these people's money available for education by the sum of $12,000, whence is to come this excess? For the 250 pupils supposed to be in attendance at St. Francis the greatest reasonable allowance from trust funds would probably be less than $4,000—even if the parents wished the money so used.

Let all the Indians and all schools, we say, be fairly and equitably dealt with in the administration of their trust funds. The people here are surprised and shocked to learn that the St. Francis (Mission) School was for a great many years, previous to 1900, supported out of the interest of their tribal funds. They all realize that if that plan is followed all other schools are handicapped in the work of educating their children. Can the United States Government afford to appear as a partisan in the aid and comfort which it gives to mission work of any kind?

Above are some very pertinent questions which, we think, call for reply at once and suitable action on the part of Government officials.

Respectfully and faithfully, yours,

ARON B. CLARK,
Missionary (Protestant Episcopal).
JAMES F. CROSS,
Missionary (Congregational).

The funds are held by the Government in trust for the whole membership of the tribe, and can not in good conscience be diverted for the sole benefit of certain members thereof, for a purpose objectionable to a large majority of the tribe. The regulations of the Indian Office would seem to be very explicit on this point, section 269, which is based on section 2097 of the United States Statutes stating:

"* * * Treaty funds can not be diverted from the objects for

[a] For table, see page 1197.

which appropriated without the consent of the tribes, expressed in general council, which consent, stated in writing, must be approved by the Secretary of the Interior, and the approval communicated to the agent, before the diversion can be made."

No such council was ever held on the part of the tribes whose funds are being thus diverted. Some of the Indians, desiring that these contracts be entered into, wrote the Indian Office to that effect. The letter from Crow Creek, for instance, was signed by fifty-three (forty-two of whom signed by mark), while the protest received by the association was signed by 106, every one of whom wrote their names.

During the consideration by the Senate of the question of further appropriation for Indian contract schools in 1895, Senator White, in opposition to further appropriation for this purpose, said:

"The policy thus announced (by the President) is one which meets my cordial approval. I am convinced that the Indian schools should be under the absolute management—not the halfway management, but the absolute management—of the Government. It is plain that the appriations which are to be expended by this denomination or that one must be provocative of acrimonious discussion, and whatever benefits might otherwise flow from the administration of sectarians the advantage is more than met by the difficulty which arises from the factional religious agitation thereby engendered. Mr. President, so strongly do I feel the necessity for such positive action at this time that I do not think it right to urge the interposition into this bill of any private interests whatever. The real principle we should follow ought to be that the Government, which pays the money, should control that which it supports; that it should have no partners in the disbursement of its educational funds."

The policy now being pursued of expending Indian trust funds for contract schools, without the individual consent of the Indians, aside from other weighty reasons in opposition thereto, will engender factional feeling among the Indians to a much greater degree than the use of Government funds for a like purpose.

Furthermore, these trust funds in the keeping of the Government become quasi public funds, under the large discretionary authority of expenditure, and should be paid out only in accordance with the well-established policy of the Government in relation to other public funds, which, in this instance, the law forbids being diverted for the support of sectarian schools among Indians.

We believe the better sentiment of the people will disapprove of this latest form of injustice to a large majority of the Indians of our country.

The Board of Indian Commissioners of the United States some time since recorded its disapproval of the diversion of Indian trust funds by the Government for sectarian school purposes.

There is no objection to any Indian making choice of having his share of funds used in the manner indicated, but a share of undivided tribal funds can not well be segregated from the others until the final segregation of tribal funds is directed by Congress into individual holdings, a statute very much desired by friends of the Indian.

It will be evident to all that this diversion of Indian trust funds must be prohibited by law or the policy established by statute forbidding the use of public funds for sectarian schools abandoned.

On behalf of the Indians who have appealed to us for assistance in securing a recision of the contracts and abandonment of the present policy of paying out trust funds for sectarian schools without their consent we solicit your aid in this matter. We request that you urge upon your Senator and Representative in Congress that they render efficient assistance in the enactment of legislation that will prohibit the further expenditure of Indian trust funds for the support of sectarian schools without the consent of the individual Indian whose share of funds it is proposed to use for that purpose.

INDIAN RIGHTS ASSOCIATION,
By M. K. SNIFFEN, *Secretary.*

Mr. Chairman, I will present to the House a statement from the CONGRESSIONAL RECORD and the statistics showing that neither the President nor the Secretary of the Interior has any authority whatever in law to use the Indian trust funds for the support of Roman Catholic or any kind of sectarian schools, and that the $102,000 recently paid to such schools is unlawful and unwarranted by law, and no authority of law can be given for this misappropriation of public funds.

[From CONGRESSIONAL RECORD, February 3, 1900. 56th Cong., 1st sess., p. 1474. Committee of the Whole House considering Indian appropriation bill.]

Mr. FITZGERALD of New York. I offer the following amendment:

"That wherever there are trust funds in the Treasury of the United States to the credit of, or moneys due under treaties, or other agreements, any tribe, or band of Indians, the principal of which or any portion thereof, or the interest of which or any portion thereof, the Secretary of the Interior is authorized by law, in his discretion, to use for the benefit of said Indians, and the parents or guardians of any children entitled to the benefit of such funds shall make choice of a school or schools where they desire their children or wards to be educated, then, and in that event, if in his judgment such schools are proper institutions in which to educate their children, the Secretary of the Interior is hereby authorized to use said funds so belonging to said Indians and set aside for their benefit to pay the expenses, or any part of the expenses, of educating said children in the schools so chosen by said parents or guardians."

Mr. LITTLE. I make a point of order against that amendment.

The CHAIRMAN. The amendment is clearly legislation.

Mr. LITTLE. I think this proposition is more vicious than the other one proposed by the gentleman from New York. I think it is a greater wrong for the Government to suffer the paying out of the Indian trust funds without its supervision than it is to pay out its own money. Therefore I insist on the point of order.

Mr. FITZGERALD of New York. I simply wish to say that it is very poor policy that will prevent these Indians from spending their own money for the benefit of their own children, in the way that everybody concedes is best for themselves and this country.

Mr. LITTLE. If these Indians were capable of self-government the position of the gentleman would be correct. Otherwise it is not.

The final appropriation for sectarian schools was made at last preceding session of Congress, and Mr. FITZGERALD was endeavoring to have it continued, and this explains the reference of Mr. LITTLE to the other proposition of FITZGERALD'S.

The Clerk read as follows:

SEC. 6. That no part of the moneys herein appropriated for fulfilling treaty stipulations shall be available or expended unless expended without regard to the attendance of any beneficiary at any school other than a Government school.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to reoffer the last amendment, at the end of section 6. I mean the amendment which was just ruled out of order.

Mr. SHERMAN. Mr. Chairman, we have read quite a bit of section 7 already.

The CHAIRMAN. The Chair is of the impression that it comes to late here. We are reading section 7.

Mr. STEPHENS of Texas. The Clerk is very swift in his reading.

The CHAIRMAN. If the gentleman from Texas [Mr. STEPHENS] was seeking recognition before the reading of section 6 was completed, the Chair will now recognize him.

The Clerk read as follows:

On page 54, Indian appropriation bill (H. R. 17474), add the following:

"*Provided*, That no portion of Indian trust funds nor the interest thereon shall be expended for contract schools without the consent, in writing, of the Indians entitled to the same being first obtained."

Mr. SHERMAN. Mr. Chairman, I raise the point of order against the amendment. It is legislation.

The CHAIRMAN. The gentleman from New York [Mr. SHERMAN] raises a point of order against the amendment. Does the gentleman from Texas [Mr. STEPHENS] desire to be heard on the point of order?

Mr. STEPHENS of Texas. Mr. Chairman, I make the same statement that I did before on the former point of order. It is a limitation and direction as to how this money shall be expended. Section 6 reads:

That no part of the moneys herein appropriated for fulfilling treaty stipulations shall be available or expended unless expended without regard to the attendance of any beneficiary in any school other than a Government school.

Now, Mr. Chairman, I understand that these trust funds have been used under the authority of this section. I made a point of order against this section at the time it was put in here last year. The point of order was overruled. Under this, I understand, these trust funds have been used. If so, certainly the practice and rulings of this House do not correspond. We have paid out over $100,000 to the Catholic Church under the ruling of the House that the gentlemen contended was not the law at the time.

Mr. SHERMAN. Mr. Chairman, I insist upon the point of order. The amendment specifically says that it relates to trust funds.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

ARTICLE II. In consideration of the lands ceded, granted, relinquished, and conveyed by Article I of this agreement, the United States stipulates and agrees to pay to the said Indians per capita in cash the sum of $3,900, share and share alike, to each man, woman, and child belonging on the said Port Madison Indian Reservation, within ninety days after the ratification of this agreement, and also to pay to certain of said Indians, within the said time limit, the sum of $3,628 for certain personal improvements, and $466.75 to the treasurer of the Port Madison Indian Improvement Club for floating wharf, and $355 to the treasurer of the board of trustees of the Port Madison Indian Church, as listed in schedule of appraisement of said improvements upon lands ceded by Article I of this agreement, a copy of which schedule of appraisement is hereunto attached. And it is further agreed that the disposition of the sum of $884, the appraisement of the Government schoolhouse and farmer's dwelling, and $200 for cable anchorages of two telegraph companies, as per attached schedule, is discretionary with the Secretary of the Interior, and may be expended, in his discretion, in the erection of a day school building upon the remaining 36 acres unallotted subdivision of the Port Madison Indian Reservation, described as lot 3, section 21, township 26 north, range 2 east, Willamette meridian, which unallotted subdivision adjoins lot 4 of the tract ceded by Article I of this agreement.

Mr. STEPHENS of Texas. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Insert at the end of line 18, page 56:

"That the restrictions as to sale are hereby removed from the allotment of Okemah, east half of southeast quarter of section 24, township 10, range 3 east. Also of the allotment of The the qua, west half of southeast quarter of section 24, township 10, range 3 east. Also the allotment of Wah nah ke the hah, north half of southeast quarter of section 13, township 10 north, range 3 east.

"All of these allotments are in the Territory of Oklahoma and belong to Kickapoo Indians, who are nonresidents and reside in Old Mexico, and have resided there for five years."

Mr. SHERMAN. Why, Mr. Chairman, I do not know whether a point of order lies. I raise two or three points of order. But I will reserve them to find out what is the gentleman's purpose.

Mr. STEPHENS of Texas. I offer to insert in line 19, page 57, for the reason that there are several other Indian allottees on that reservation who desire to have their allotments removed, and I see no reason why we should make any distinction between Indians in that way.

Mr. SHERMAN. Why, Mr. Chairman, let me call the gentleman's attention to the fact that he proposes to amend an agreement.

Mr. STEPHENS of Texas. Is it an agreement?

Mr. SHERMAN. It is an agreement made with Indians, which is here for ratification, and your proposition is to amend that agreement.

Mr. STEPHENS of Texas. Then I will offer it at the end of the bill.

Mr. SHERMAN. How are you to amend an agreement?

Mr. STEPHENS of Texas. I will offer it as an independent section at the end of the bill. Is that satisfactory?

Mr. SHERMAN. Anything is satisfactory that ought to be done; but here is an agreement. We can not modify an agreement here. The parties to the agreement can only modify the agreement.

Mr. LACEY. These are other Indians out in Oregon.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. SHERMAN. I make the point of order that this is new legislation, and not germane.

Mr. STEPHENS of Texas. Will the gentleman permit us to return to the point where some similar provisions are found in this bill?

The CHAIRMAN. Does the gentleman desire to be heard on the question of the germaneness of the amendment?

Mr. STEPHENS of Texas. I do not.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HINSHAW. Mr. Chairman, I ask unanimous consent to return to page 31 for the purpose of offering an amendment with reference to the warehouse at Omaha, Nebr. I ask to return for the purpose of making an amendment similar to the one that has already been made.

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent to return to page 31. Is there objection? [After a pause.] The Chair hears none.

Mr. HINSHAW. Mr. Chairman, I move to insert the word "ten" instead of the word "seven" in line 16, on page 31.

The Clerk read as follows:

Line 16, page 31, strike out the word "seven" and insert the word "ten," so as to read "$10,000."

The question was taken, and the amendment was agreed to.

Mr. SHERMAN. Mr. Chairman, I understand that the gentleman from New York [Mr. FITZGERALD] is willing to withdraw his point of order against the amendment of the gentleman from Utah, and I ask unanimous consent that while we are on page 31 that amendment may be considered.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert after line 20 the following:

"That the Secretary of the Treasury is hereby authorized to place to the credit of Howell P. Myton the sum of $796.14, being the amount charged against him as money paid to unlawfully enrolled members of said tribes while Indian agent Uinta and Ouray Agency, Utah, during his term of service ending March 31, 1903."

Mr. FITZGERALD. Mr. Chairman, I simply want to say that from an examination of a very voluminous record with reference to this matter, I think that the amendment is not objectionable.

The question was taken; and the amendment was agreed to.

Mr. SHERMAN. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the amendments, with the recommendation the amendments be agreed to, and the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CURRIER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17474, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any of the amendments reported from the Committee of the Whole House on the state of the Union? If not, the vote will be taken on the amendments in gross.

The amendments were agreed to in gross.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. SHERMAN, a motion to reconsider the vote by which the bill was passed was laid on the table.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6314. An act for the relief of certain receivers of public moneys, acting as special disbursing agents, in the matter of amounts expended by them for per diem fees and mileage of witnesses in hearings, which amounts have not been credited by the accounting officers of the Treasury Department in the settlement of their accounts—to the Committee on Claims.

MANAGERS OF THE IMPEACHMENT OF JUDGE CHARLES SWAYNE.

The SPEAKER. The Chair announces the following managers in the impeachment case, pursuant to a resolution of the House.

The Clerk read as follows:

Mr. PALMER, Mr. POWERS of Massachusetts, Mr. OLMSTED, Mr. PERKINS, Mr. CLAYTON, Mr. DE ARMOND, and Mr. SMITH of Kentucky.

Mr. PALMER. I offer the resolution that I send to the Clerk's desk, Mr. Speaker.

The Clerk read as follows:

Resolved, That a message be sent to the Senate to inform them that this House has appointed Mr. PALMER, Mr. POWERS of Massachusetts, Mr. OLMSTED, Mr. PERKINS, Mr. CLAYTON, Mr. DE ARMOND, and Mr. SMITH of Kentucky managers to conduct the impeachment against Charles Swayne, judge of the district court of the United States in and for the northern district of Florida, and have directed the said managers to carry to the Senate the articles agreed upon by this House to be exhibited for maintenance of their impeachment against said Charles Swayne, and that the Clerk of the House do go with said message.

The question was taken, and the resolution was agreed to.

ANDREW LYBOLD.

By unanimous consent, at the request of Mr. SNOOK, leave was granted to withdraw from the files of the House, without leaving copies, the papers in the case of the bill (H. R. 4047) granting an increase of pension to Andrew Lybold, Fifty-eighth Congress, first session, no adverse report having been made thereon.

STATUE OF JOHN J. INGALLS.

Mr. CURTIS. Mr. Speaker, I call up the resolution which I send to the Clerk's desk, and ask unanimous consent to proceed with its consideration at this time, instead of waiting until 3 o'clock.

The SPEAKER. The gentleman calls up a resolution which will be reported by the Clerk, and asks unanimous consent to proceed under it at this time.

The Clerk read as follows:

Resolved, That the exercises appropriate to the reception and acceptance from the State of Kansas of the statue of John J. Ingalls, erected in the old Hall of the House of Representatives, be made the special order for Saturday, January 21, 1905, at 3.30 p. m.

The SPEAKER. Is there objection?

There was no objection.

Accordingly, the House proceeded with the exercises appropriate to the reception and acceptance from the State of Kansas of the statue of John J. Ingalls, erected in the old Hall of the House of Representatives, with Mr. REEDER in the chair as Speaker pro tempore.

Mr. CURTIS. Mr. Speaker, I ask for the reading of the letter which I send to the Clerk's desk.

The Clerk read as follows:

STATE OF KANSAS, EXECUTIVE DEPARTMENT,
Topeka, January 17, 1905.

To the Senate and House of Representatives, Washington, D. C.:

Among the many distinguished men whose fame has honored the State of Kansas the life of no one has added greater luster to its history than the life of John James Ingalls. His name is indelibly inscribed upon the most brilliant pages of the State's history. Grateful for his eminent services and proud of his great achievements, the State legislature two years ago made an appropriation for the purchase of a suitable statue as a tribute to his memory, to be reared in Statuary Hall, where Congress conferred upon his people the rare honor of providing a place for it. This beautiful and precious piece of statuary is now ready for formal acceptance by the Government, and in behalf of the legislature of Kansas and of the people they and I represent, I have the great honor and pleasure of presenting it to the people of the United States and their representatives in Congress assembled.

[SEAL.] E. W. HOCH, *Governor.*

WHY KANSAS HONORS THE MEMORY OF JOHN JAMES INGALLS.

Mr. CURTIS. By an act passed in 1864, now forty years ago, the Congress dedicated a portion of this great building to the commemoration by all the States of the Union of their illustrious dead. It was given to those States to choose for themselves the sons whom each one would honor. The chosen names must be so few that time and careful choice should be absolutely necessary. The honor done is very great, for this American Valhalla is not the hall of registry for an indiscriminate fame. He whose statue stands here for the men and women and little children of generations yet unborn to gaze upon may have been a man distinguished in a national sense, and be honored elsewhere, and also as one whose deeds were great in the widest field that is offered to the work of human brain and heart and hand.

But he who stands in bronze or marble here must also have had an additional and a rarer distinction, for he must have been honored, respected, perhaps even deeply loved, by the people of

his own State; by those who in his time and their time knew him intimately and well with all his sins upon him. It is an honor for which any American, could he but know, might strive and starve his whole life through, careless utterly of any other reward the sum of his life might bring. For here at last is parted the wheat from the chaff and the dross from the fine gold, and here stand in their last array those whose names have survived the winnowing of the gods.

The States that confer such final honors upon their sons are capable of bestowing gifts of the supremest value. For each one that is now a star in the galaxy the most brilliant the genius of free men has ever created, was in its day wrested from its primeval owners; carved out of woods and swamp and prairie; clad in the swaddling clothes of a written constitution by toil-worn hands; and set at last amid its shining sisters by the courage, the unrequited toils, and the unknown privations of those Americans who lived not for themselves alone, and who died unsung amid their mighty tasks. Their leaders—for there are always leaders—were centurions, captains of their hundreds, whose heads and hearts and dearest hopes went to the doing of the immediate tasks they saw around and before them. These men never dreamed of gratitude, never worked for a reward, never thought of the recompense of fame. Peace to their ashes where they sleep on green hillsides in unknown graves in every State. Unheralded they came and unrewarded they have passed away, living now in the blood and courage of their sons and daughters, spent in fields that lie still nearer to the setting sun.

Such a Commonwealth was early Kansas, with such beginnings and such men, but set apart and made remarkable by still other characteristics. Among all the States she was, even physically, the pioneer of a class, a peculiar kind hitherto unknown to American enterprise. For she was of the plains, and her boundaries as a Territory placed her on the crest of that vast expanse where a thousand swelling hills climbed higher and higher against the western sky until they reached, 4,000 feet above sea level, the mighty escarpments of the Rocky Mountains. Tradition said that such a land was never intended for the residence of white men. There were no forests to cut away. The streams drawled idly over leagues of sand. The winds came hot and strong from the endless reaches of the Great Staked Plains. Over the grassy leagues wandered countless hosts of shaggy beasts, put there by the beneficence of the red man's Providence for the sustenance of these his children. For this silent and grassy realm the white man's uttermost eastern boundary was the ashen river that had been traversed by all the pioneers of a still older time, but on whose western bank they had never found a resting place, and beyond which there had never lingered a dream of that empire which "westward takes its way."

Such was the State of Kansas only fifty years ago. The white men who came to her then came as those do who build their hopes and guide their lives upon something that lies deeper than human prescience, and who are led to their destiny or their doom by the will of God.

So the beginnings of all there is to-day in a region apparently foreordained, if ordained at all, to be the nurse of human fatuity and useless toil, came in 1858, now about forty-seven years ago, a young man whose name was John James Ingalls. He was 25 years old, unattached, a college graduate, a lawyer by preparation, and intention, cultivated, acute, highly intelligent, and withal young, slender, and personally attractive. He was an adventurer in a field where it would seem that every item of the situation was against the possibility of final success for such as he. The village of Lawrence, founded by his countrymen, had not then entered upon its career as the "historic city" further than that it was already the center of the free-state thought and struggle, and that its citizens were even then doing those things that drew upon them the flame and slaughter that came a few years later.

Atchison, Ingalls's later home, was a small town behind a steamboat landing in the Missouri. Only three years before had been driven on the bare and sterile hill above the Kaw the stakes that marked the outlines of the town that was later to become the Kansas capital. And beyond it as far to the unknown southwest as the pioneer hopes extended, there was not a single upland farm, while less than a hundred miles to the westward still wandered the shaggy brown herds whose empire all the land had been from time immemorial.

Where was there here a scholar's career or a statesman's field? Yet it all came to this young man in the space of the few years that followed. The young man with his inherited culture, his refined and educated tastes, stood apparently unarmed and alone amid incongruous surroundings. Yet the first thing he did was to acquire a love for his adopted mother, and to become inspired by the far horizon. He had a keen delight in freshness of the untainted air, in the boundlessness of the view, in the azure of the arching dome, in the length and breadth of the magnificent expanse. That this was true became evident a little later in Ingalls's life, when on the printed page he recalled the days of Regis Loisel and drew with a poet's hand the surroundings of his daily life under the familiar term of "Blue Grass."

If I have said that this young New Englander stood in early Kansas unarmed and alone amid incongruous surroundings, I beg to modify the statement. Ingalls was always armed. No man ever encountered him unready, and no antagonist ever retired from the arena of combat with him unwounded and victorious. It was the first leading quality of him that was noted by his fellow-men as they successively came in contact with him in those wars of words and ideas that in a free country finally fix the beliefs and principles of mankind. It was as well the quality oftenest misunderstood, oftenest misconstrued into a mere power of invective, almost diabolical in its scope, and that attacked any and all men, everywhere. Those who knew Ingalls longest will probably all agree that no honestly mistaken man ever felt the sting of that smooth and courteous invective. It was, on the other hand, the weapon with which a fighting man in a fighting age, in the seething whirlpool of formative politics, must win his way. Ingalls and his antagonist in the arena must always have reminded the onlooker of the scene at Coilantogle ford as painted by the greatest romantic novelist who ever lived.

> Ill fared it then with Roderick Dhu,
> That on the field his targe he threw,
> Whose brazen studs and tough bullhide
> Had death so often dashed aside.
> For, trained abroad his arms to wield,
> Fitz James's blade was sword and shield.

This dominant trait of the man Ingalls, this power of the skillful swordsman always ready, was a thing during his whole life misunderstood. It was really the result of the exercise of one of the rarest powers of the human mind—the power of quick perception and instant understanding. His ability to quickly see, to know, and to understand was almost intuitive, and it was sustained by a command of his mother tongue and knowledge of words and their uses that was marvelous. He was strangely indifferent to the beckonings of the hand that leads the sons of genius into the paths of literature; he wrote but desultorily and at intervals, yet it can be easily demonstrated that he was perhaps the greatest descriptive writer of the brief day in which he wrote at all. The poem that smells of the midnight oil, the turgid essay that bears witness to the sweat of the brow, were not for him. But in all he did of literature he struck as sharply with his pen as with that rapier of speech that was always at his side. In a literature that is small in volume and priceless in character he carved cameos by touch, and they were instantly done and cast aside, gems that anyone might have who chose to carry them away.

There were thousands who misunderstood the rare intellectuality I have attempted to describe, for it is in the course of nature that a man like this is largely isolated from his fellows by the nature of his case. Yet at a peculiar crisis in the politics of Kansas they were the qualities which brought him forward and placed him in the Senate. But he was not even then new and unknown. He had entered politics at the beginning of his career. He was a member of the convention at Wyandotte that drafted the present constitution of Kansas. His work is in every paragraph, for he is said to have had as his special task the molding into clear and vigorous English the provisions of that organic law. It was he who chose the characteristic motto of the shield "Ad astra per aspera," and this in three words acknowledged the difficulties of the beginnings and foretold the glories which were so soon to come.

Later Ingalls was secretary of the Territorial council, and still a little later was a member of the State senate. These were the educational beginnings of his political career. It was the day of small things for all that lay west of the Missouri. In the town of Atchison he made himself a home and lived as other men, intent upon the affairs of daily life, cherishing the home he had made and the family that had grown about his knees, with an even greater devotion than he ever showed to any of the interests which later clustered about a life that was lived in the public eye.

The story of that public life is still remembered in many of its details. Mr. Ingalls passed eighteen years in the United States Senate. They were years during which the Congress in both its branches was filled with stalwart men. It was the reconstructive period that followed the greatest war of modern times. In it lived Blaine and Garfield and Conkling and Butler and Logan. They were the days of Grant, and, in their beginnings, Charles Sumner died. The rugged veterans of their

country's battles, the skilled soldiers who had commanded her armies in the field, came again to these Halls to make her laws. There were episodes in those days that will never occur again; there were scenes no pen has yet described.

It was during these years that Ingalls achieved for his State a fame that has not yet grown dim. The man from the rim of the desert gave the world for the first time to understand that it might hereafter expect from that far country legends other than those of calamity and woe. He was the first to give adequate expression to the new ideas and ideas of a great State whose nursing mother had been sorrow, whose atmosphere had been full of strife, the very stones of whose foundations had been laid in blood. The remarkable story of all that preceded Ingalls is not for me to tell here. Largely he created the changed sentiment that since his day has been attached to Kansas and to the men and women nurtured on her soil.

Finally there came the rise of that which for want of a better name has come to be known as the western agrarian movement. It was a political movement not confined to Kansas, but there it had its highest rise, and later its profoundest fall. No one has ever described it accurately, for its followers and adherents have themselves almost ceased to be interested in the story of that which they at one time seem to have believed was a doctrine that involved the salvation of all that Americans hold dear.

At the height of this new doctrine Mr. Ingalls's third term in the Senate came to an end, and he was defeated for reelection. It was not a personal defeat, and he was but the subject of an animosity that was really directed against that which he was imagined to strongly represent. Neither the Cavalier nor the Roundhead in their day paused to analyze the personal characteristics each of the other. In Kansas the party which was victorious at the polls wanted their fitting Senator, and got him.

Agrarianism has had its day. The State which gave Blaine 180,000 votes in 1884 gave in its slow recovery 125,000 majority for Roosevelt in 1904. With the slow change back to the Augustan age, and the spirit of the imperial days that made Kansas all she is, came a recrudescence of admiration for and sympathy with her greatest man. He was not there to explain his own brilliant life and advocate his cause. The hearts of the men of Kansas turned back to him alone. By an act of their legislature they have placed his counterfeit presentment here as their tribute to his memory. Mr. Ingalls in his lifetime could have asked nothing more, and the love of his fellow-citizens could give nothing less. Yet this monument is for the world at large. No Kansas schoolboy will ever need it to remind him who that man was, or what he did, who was named "John James Ingalls."

Mr. CLARK. Mr. Speaker, in the very heart of the continent, lying side by side, are the magnificent Commonwealths of Missouri and Kansas. Neither northern nor southern, neither eastern nor western, they are the great central States of the Union. A circle with Kansas City for its center and with a radius of 300 miles would contain more land of the richest quality than any other circle of equal size on the habitable globe. Within its circumference can be produced all the necessaries and most of the luxuries of human life. Cultivated as scientifically as Belgium or Holland, Missouri and Kansas could sustain a population equal to that of the entire Republic at the present time.

It is, however, not in their phenomenal wealth of material resources and possibilities that these two States are most lavishly blessed, but in their superb citizenship.

In the early day Missourians and Kansans, inheriting from the fathers a bitter, irrepressible, historic quarrel for which they were in no way responsible, were at daggers' points, and led "the strenuous life." Now, acting on the noble philosophy that "Peace hath her victories no less renowned than war," they are illustrating the virtues of "the simple life." Love, which laughs at locksmiths, has broken down the lines of demarcation. Missouri boys have married Kansas girls, and Kansas boys have married Missouri girls, until we are all getting to be kinfolks. The blend is the highest type of American manhood and womanhood. Missourians and Kansans are rivals now only in patriotism—in intellectual, moral, religious, and material achievement. They are leaders in the nation's triumphal progress, the true story of which is more marvelous than any tale out of the Arabian Nights.

It was a matter of ineffable pride with the people west of the Mississippi that for many years the two most brilliant speakers in the Senate of the United States lived on the sunset side of the great river—George Graham Vest, of Missouri, and John James Ingalls, of Kansas.

They were the opposites of each other in almost everything—in nativity, in lineage, in methods of thought, in style of oratory, and in politics. Ingalls boasted that he was a "New England Brahmin," whatever that may be. Vest was a fine sample of the Kentuckian, "caught young enough" and transplanted to the rich alluvial soil of Missouri.

Both had classical educations, Ingalls being an alumnus of Williams College, Massachusetts, and Vest of Center College, Kentucky—two famous seats of learning. Both delighted in the wisdom of the ancients and the moderns and both reveled in the poets.

Ingalls was a judge-advocate of Kansas militia for a short while; Vest served on Price's staff a few days.

Ingalls's speeches were composed largely of aqua fortis, dynamite, and Greek fire; Vest's were a mixture of vitriol, sweet oil, rosewater, naphtha, and gun cotton.

Danton's motto was: "L'audace! L'audace! Toujours l'audace!" Ingalls's weapon was "Sarcasm! Sarcasm! Always sarcasm!" In that regard he ranks with Tristam Burges, John Randolph, of Roanoke, Thaddeus Stevens, and Thomas Brackett Reed. Vest tempered his sarcasm with genial humor which cured the wound which he had inflicted.

Ingalls possessed the most copious and most gorgeous vocabulary of his day, more copious and more gorgeous, indeed, than that of any other American orator except Henry A. Wise; and was the most painstaking precisian in the use of our vernacular who has appeared in our Congressional life. He burnished his sentences till they glittered as a gem. He was well qualified to write an unabridged dictionary or a book on synonyms. Clearly he thought with Holland that:

> The temple of art is built of words. Painting and sculpture and music are but the blazon of its windows, borrowing all their significance from the light, and suggestive only of the temple's uses.

Vest's diction was rich, but the construction of his sentences lacked evidence of the severe and repeated polishings to which the caustic Kansan subjected his. If he used as much art, he employed the rarer art of concealing its use.

Each wielded the scimitar of Saladin rather than the two-handed broadsword of Richard Coeur de Lion.

Ingalls was tall, slender, and erect as a grenadier; Vest was short, rotund, and walked with the proverbial student's stoop.

Ingalls neglected none of the accessories of public speech. He looked well to the stage settings. He was a connoisseur in costumes. Neither Roscoe Conkling nor Solomon in all his glory was more splendidly arrayed. He followed in letter and in spirit the advice of Polonius to Laertes:

> Costly thy habit as thy purse can buy,
> But not expressed in fancy; rich, not gaudy;
> For the apparel oft proclaims the man.

Vest enjoyed the comforts of good raiment, but cared nothing for the adornments.

In the strictest acceptation of the term, Vest was never popular in Missouri, and Ingalls was never popular in Kansas. They had a wondrous hold on the admiration but not on the affections of their constituents. Thinking of Vest, a man is proud to call himself a Missourian. Thinking of Ingalls, another is proud to call himself a Kansan. Thinking of either of them, one is proud to call himself an American.

Each through sheer brilliancy of intellect and soul-stirring eloquence aroused intensest enthusiasm among his countrymen. Men listened to Vest and Ingalls just as they listen to the thrilling strains of entrancing music, but the frenzy of rapture which they engendered is not adequately expressed by the paltry word "popularity." It was delirious delight!

When either addressed the multitude, he so warmed their hearts that—

> They threw their caps
> As they would hang them on the horns o' the moon,
> Shouting their exultation.

It is a queer fact—perhaps a regrettable one—that these two celebrated intellectual gladiators never engaged in an oratorical pitched battle in the Senate. Such a duel would have been worth journeying across the continent to witness. Each being in perfect fettle, with a subject of sufficient historic importance, a contest betwixt them ought to have rivaled the Webster-Hayne debate in enduring interest.

Kansans are paying their highest meed of praise to Ingalls by placing his effigy, carved by a cunning hand from Parian marble, in Statuary Hall, the great American Valhalla, where our choicest worthies do congregate for posterity. Missouri would do the same for Vest but for the fact that her quota in that illustrious company was filled while he still tabernacled in the flesh.

Ingalls preceded Vest to the grave, and in the Saturday Evening Post the brilliant Missourian said, inter alia, touching the brilliant Kansan:

> Of all the public men with whom I have served John James Ingalls, of Kansas, was the most original and eccentric. He was a living enigma, and I could never fully understand his motives and the many-

sided phases of his character. He had a strong, daring intellect, which defied all limitations, and was an eloquent, attractive speaker, with a wealth of imagination and diction which was inexhaustible. He was at times cynical and morose, but was a great word painter and could express the most elevated thoughts in language so beautiful as to fascinate his hearers. Above all, he was an iconoclast, and nothing delighted him so much as to startle and even shock the staid and dignified Senate by the utterance of opinion utterly at variance with the settled belief of many centuries.

* * * * * * *

I do not believe that Ingalls was malicious or bad hearted. He was an expert in denunciation and could not resist the temptation of exhibiting his wonderful capability in that regard to the world. He loved poetry, music, painting, sculpture, and the beautiful in nature. His prose poem on Blue Grass, published in a Kansas magazine before he came to the United States Senate, is a marvel in literature, and I am glad to know that a sentence from that essay is to be inscribed on the granite bowlder which marks his grave. The sentence is the one in which he eulogizes the blue grass sward, beneath which he sleeps, as a "carpet for the infant and a blanket for the dead."

* * * * * * *

Senator Ingalls was a master of satire and invective, being unable to resist the temptation to attack any of his colleagues, even those of his own party, whose record or character presented a vulnerable point for assault. On one occasion, when President pro tempore of the Senate, he called another Senator to the chair, and going down on the floor, made a vicious personal attack upon Senator Brown, of Georgia, one of the most amiable and courteous members of the Senate. The venerable Georgian was sitting quietly looking over a committee report when a cyclone of satire and vituperation burst upon him without the slightest notice of its coming. The look of astonishment on the amiable countenance of the victim, as verbs, nouns, pronouns, adjectives, and epithets filled the air, caused a ripple of amusement through the Senate; but the climax was reached when Ingalls alluded to a habit Senator Brown had when speaking of gently rubbing one hand over the other, by quoting Hood's lines:

> And then, in the fullness of joy and hope,
> Seemed washing his hands with invisible soap
> In imperceptible water.

At this critical moment Senator Brown looked down at the offending members as if inquiring why they had brought on the volcanic eruption which was blazing about him.

The late Senator George Frisbie Hoar, in his autobiography, says:

John James Ingalls was in many respects one of the brightest intellects I ever knew. He was graduated at Williams in 1855. One of the few things, I don't know but I might say the only thing, for which he seemed to have any reverence was the character of Mark Hopkins. He was a very conspicuous figure in the debates in the Senate. He had an excellent English style, always impressive, often on fit occasions rising to great stateliness and beauty. He was for a while President pro tempore of the Senate, and was the best presiding officer I have ever known there for conducting ordinary business. He maintained in the chair always his stately dignity of bearing and speech. The formal phrases with which he declared the action of the Senate or stated questions for its decision seemed to be a fitting part of some stately ceremonial. He did not care much about the principles of parliamentary law, and had never been a very thorough student of the rules. So his decisions did not have the same authority as those of Mr. Wheeler or Mr. Edmunds or Mr. Hamlin.

I said to him one day: "I think you are the best presiding officer I ever knew, but I do not think you know much about parliamentary law." To which he replied: "I think the sting is bigger than the bee."

He never lost an opportunity to indulge his gift of caustic wit, no matter at whose expense.

Mr. Eugene W. Newman, who writes much and felicitously under the nom de plume of "Savoyard," characterizes Ingalls as "the wizard of the English tongue," and says of him:

John James Ingalls was an extraordinary man. By no means the ablest, he was perhaps the most brilliant Senator in Congresses conspicuous for exceptionally brilliant men. He was born in New England, of Puritan, not Pilgrim, parentage; of the Endicott, not the Carver, exodus; of the Salem, not the Plymouth, régime. In a sort of mirage of tradition the family is traced back to the Scandinavian kings and peoples who grafted Dane and Norman on Briton and Saxon. The name is in Domesday Book. President Garfield and Chief Justice Chase had like origin; indeed, the same origin.

* * * * * * *

Ingalls rose to be one of the chief figures in American politics and success came at his command. He never courted it. He was a poet, and never so lonesome as when in a crowd. Lamar was another of that order of man. Ingalls was not "a man of the people," emphatically not, and could not successfully employ the arts of the vulgar demagogue. He could just as easily have uplifted the club of Hercules or stricken with the hammer of Thor. Honors came to him grudgingly and churlishly, and solely because he was the first intellect and the one genius in the Kansas that knew Dudley C. Haskell and Preston B. Plumb.

These three—Vest, Hoar, and Newman—are competent and distinguished witnesses. Perhaps the average opinion of their evidences would properly and truly portray John James Ingalls. As Dryden described Halifax so may Ingalls be described:

> Of piercing wit and pregnant thought,
> Endued by nature and by learning taught
> To move assemblies.

Mr. Speaker, Kansas acts wisely in honoring John James Ingalls, for in honoring him she also honors herself. [Loud applause.]

Mr. GIBSON. Mr. Speaker, I rise to speak of Ingalls and Kansas. Ingalls—Kansas; Kansas—Ingalls! One name suggests the other. They are as indissolubly connected as are the names of Webster and Massachusetts, of Clay and Kentucky, or of Calhoun and South Carolina. When the name of Ingalls is mentioned in the hearing of a man acquainted with his record and the history of his State there rises at once in the memory and imagination the figure of a man, tall, slender, and straight, looming up above the treeless plains of Kansas as conspicuously as a lonely and lofty monolith above the sandy plains of Egypt; and so, when the name of Kansas is spoken, we have a picture of a beautiful country framing the portrait of Ingalls, her greatest son.

KANSAS THE CHILD OF CONFLICT.

Kansas has a romantic and peculiar history. She is the only one of the new States that was born amid the smoke of battle and whose cradle was rocked by the bloody hand of civil war. Her plains beheld the preliminary skirmishes of that great conflict which for four years shook the continent of North America and appalled the whole world by its magnitude and its animosity. The North and the South struggled for her possession while she was yet in her infancy. The early immigrants to Kansas came armed with rifles, revolvers, and bowie knives, and they soon found it necessary to beat their plowshares into swords and their pruning hooks into spears and learn war instead of peace. I lived through those days, and well do I remember how the North sent forth her armed bands to hold the land and how the South sent forth her fiery sons to stay and turn back the tide of Northern invasion.

The South conceded Nebraska to the North, but claimed Kansas as her own, and appealed to her loyal sons to vindicate her claim.

> Sons of the South, awake, arise,
> To fight for Kansas land,
> With valor gleaming in your eyes
> And ballots in your hand:
> For Kansas to the South belongs,
> Nebraska to the North,
> And if we do not right our wrongs
> What is our valor worth?

Such was the appeal made by the South, and her impulsive sons enthusiastically responded.

THE BATTLE CRIES OF THE COMBATANTS.

The North answered the challenge with equal spirit.

> One and all, hear our call!
> Echo through the land!
> Aid us with a willing heart
> And the strong right hand!
>
> Feed the spark the Pilgrims struck
> On old Plymouth Rock!
> To the watch fires of the free
> Millions glad shall flock!
>
> Ho, brothers! Come, brothers!
> Hasten all with me!
> We'll sing upon the Kansas plains
> A song of Liberty!

And so with rival songs, hostile watchwords, and partisan battle cries it was not long before the contending hosts began to substitute bullets for ballots and the flame of fire for the torch of knowledge. Political passion ran wild on the plains of Kansas, even before the buffalo had departed or the red Indian had taken down his wigwam; and amazing indeed to them must have been the spectacle of white man fighting white man, paleface slaying paleface, Americans butchering Americans, Christians massacring Christians—the divine gospel of love metamorphosed by the demon of an ungovernable passion into the infernal gospel of hate.

THE SCENES OF INGALLS'S YOUTH.

Amid such scenes of horror and distress Ingalls passed his young manhood. He beheld the proslavery men in death struggle with the free-state men. He witnessed the guerrillas, the bushwhackers, and the border ruffians pillaging the land; he heard his friends denounced as black Republicans, abolitionists, and jayhawkers; the terrors wrought by Osawatomie Brown among the proslavery men and by Missouri Quantrell among the free-state men filled every home with horrible apprehensions and conjured up nightmares for every bed. Ingalls saw assaults grow into murders and murders grow into massacres; he saw house burnings grow into conflagrations, and conflagrations sweep away villages, towns, and cities, until his State was red with human blood and black with the charred ruins of burned homesteads. Murder, robbery, and arson ran rioting through the land; the laws were trampled under foot, and chaos and pandemonium had come again.

No wonder she was called "Bleeding Kansas!" for verily she bled as no other Territory or State of the American Union has bled.

> She saw her sons with purple death expire,
> Her sacred domes involved in rolling fire;
> A dreadful series of intestine wars,
> Inglorious triumphs, and dishonest scars.

Trained amid these surroundings, sympathizing intensely with his adopted State in her sufferings, thoroughly indignant at those who had laid waste her habitations and slaughtered her citizens,

and longing for the chance to speak as her champion and strike as her vindicator and avenger, Ingalls became transfigured into the very personification of Kansas, and all the emotions, memories, aspirations, and passions of his State throbbed in his heart, seethed in his brain, flashed in his eyes, and flamed in his speech.

His oratory was characteristic of Kansas in the troublous times of his young manhood; his invective was as terrible as the onslaughts of John Brown and his raiders; his irony as biter as a jayhawker's answer to an appeal for mercy; his imagination as lofty and lurid as the flames which filled the skies when Lawrence was burned by Quantrell's guerrillas and its citizens massacred; his sarcasm was as cutting and relentless as a bowie knife in the hands of a border ruffian; his indignation as fiery and thunderous as a charge of free-state men upon the bushwhackers of the border, and his logic as pitiless and as irresistible as the cyclones which tore through the State from the Rockies to the rivers, annihilating everything in their pathway. But he always fought in the open, sometimes like an Ishmaelite, giving no mercy and receiving none; but at all times, and under all cricumstances, loved by his State of Kansas and feared by her enemies.

INGALLS IN THE SENATE.

Thus trained, thus educated in the troubled school of fratricidal war, thus inspired with the tremendous emotions born of the earthquake throes of those awful times, John James Ingalls came to the front of the platform of public life; and after serving in the councils of his State for a season, was, in January, 1873, elected a Senator in the Congress of the United States, and for eighteen years from the day he took his seat he was one of the shining figures in that grand body of good and great men.

We do not judge a lion by comparison with wolves, for the contrast does not so much magnify the lion as it portrays the despicable nature of the wolf. To judge a lion he must be compared with lions. So to judge Ingalls we must not place him with ordinary men. A Senator stands for a million men, and a great Senator stands for many Senators. Ingalls was a great Senator—great amid such Senators as Bayard, Ben. H. Hill, John A. Logan, George F. Hoar, Roscoe Conkling, Allen G. Thurman, Isham G. Harris, George F. Edmunds, Matt. H. Carpenter, and John Sherman.

He was a giant among giants, and of them all none more picturesque, none with such a distinctive individuality, none that rose higher in the sublime atmosphere of lofty intellectuality. And when Ingalls left the Senate he stepped forth upon a broader and loftier arena and became henceforth more than a distinguished son of Kansas, he became one of the great men of America and of the world—

> One of the few, the immortal names,
> That were not born to die.

INGALLS HIS STATE'S FAVORITE SON.

Such, then, being the history and character of the man; such being his inspiration and his devotion; such his genius and his fame; such his personification of all that was best and brightest, most patriotic, most famous, and most characteristic in her history, it was most fitting that the State of Kansas should select him as her most illustrious representative and her most distinguished citizen, to stand forth in these halls in imperishable marble as long as this Capitol shall stand, and as long as the Nation shall live.

And I pray God that the nation may live forever, and ever grow in greatness and in glory; and that this Capitol may remain undisturbed by the elements, unshaken by earthquakes, and unmarred by the wrath or the folly of man for many, many generations; and that there shall remain under this imperial Dome, as an inspiration to the youth of the land and a perpetual memorial of the love of a State for a favorite son, this sublime statue erected here in this Hall of Glory by the great State of Kansas in honor of her greatest and best beloved son, John James Ingalls! [Loud Applause.]

Mr. BOWERSOCK. Mr. Speaker, New England born, Kansas bred. New England supplied largely the mind, brawn, and blood that fed the fires of freedom in Kansas, and that led to the triumph of free-State principles. Kansas grew from a New England sprout transplanted. A new soil, a different air, a unique environment is maturing a tree with roots of Puritan mold, but with a trunk and some branches that have taken shape that may come of higher altitude, erratic winds, divergent soil, tempestuous birth time, and baptism of blood, fire, and rapine.

Kansas, born like man in travail, cradeled in struggle, schooled in calamity, maturing after barren reforms—needed, in order to triumph over internal strife, emigrant freaks, and climatic extremes, a type of men made for the occasion and the event. In the history of the world, as a rule, when the times required the man, behold there the man was.

"We are on the eve of a great national transaction, a transaction that will close a cycle in the history of our country," said Seward, in the Kansas-Nebraska debate. Two men came out of New England and immigrated to Kansas to help close this "cycle." Two men who have made a higher mark for much that is best, and to be best, it may be, in Kansas than any others. One came in the prime and strength of manhood, the other in the glory and enthusiasm of youth. One gave his most earnest and fearless efforts to laying the foundations of the Commonwealth from within, the other, while a pioneer, gave to Kansas the best years of his life outside the boundaries of his State in the councils of the highest legislative body on earth.

I was asked some years ago for a personal expression of my judgment as to which two men belonging to Kansas and a part of her history and achievement should the people honor by giving them a place in the Statuary Hall of the nation. Without hesitation I replied Charles Robinson and John J. Ingalls.

It has been said, "Once a Kansan, always a Kansan." Ingalls loved Kansas. It may be said of him, in his own words, referring to A. D. Richardson:

> Kansas exercised the same fascination over him that she does over all who have yielded to her spell. There are some women whom to have once loved renders it impossible ever to love again. As the "gray and melancholy main" to the sailor, the desert to the Bedouin, the Alps to the mountaineer, so is Kansas to all her children.

Ingalls was a human electric motor, driven by a generator that gathered and concentrated force from the great plains of his adopted State and sending out lightning current and spark, that, caustic like, seared and burned sham and evil and struck down oppression and wrong.

He could cut quickly and deep, and he could salve a wound as gently as a mother soothes a babe. The thunderbolt always accompanies the tornado, the rain and the sunshine follow after.

He was an artist, not with brush and pallet, but with words fitly picturing thoughts of force and beauty. Few men's thoughts ever had more apt and complete expression. Often incisive and irresistible as a mountain blizzard, again as mild and refreshing as a Kansas zephyr.

He has been removed from the center of the stage, but not from the ken of men. Within the month one of the gifted writers of the capital city wrote of him as the "most brilliant man in the United States Senate," a distinction Mr. Ingalls would never have claimed.

And George R. Pech, honored and loved by Kansans, and who honors Kansas, said of him:

> He was a scholar, and all his tastes were scholarly and refined. His knowledge of words and his unerring skill in choosing always the right one were proverbial. In debate I believe he was superior to John Randolph, who in his day was the terror of his opponents. He was such a splendid fighter that many people think of him only as the great master of invective and of pitiless sarcasm; but read "Blue Grass," or his article on Albert Dean Richardson, or his beautiful tribute to Ben. Hill, and the kindly elements of his nature become strongly and sweetly visible.

But after all may not the home life of the true man and the truly great man be the highest test? Ingalls stands revealed in the public searchlight; and in the mellower, softer, oft times somber, but more trying, light of home and fireside he was devoted, kind, respected, loved.

Whether in the convention framing the constitution of Kansas, in the legislature, or as judge-advocate of volunteers, as editor, as United States Senator, as President of the Senate, he was always unique, isolated, yet most kindly approachable, brilliant, incisive, clear, masterly. Some one has said:

> Acts are only symbols of the soul. God seeks the soul behind the symbol.
>
> Pigmies are pigmies still, though percht on Alps;
> And pyramids are pyramids in vales.
> Each man makes his own stature, builds himself.
> Soul grandeur only gives the measure of the man.

[Loud applause.]

Mr. WILEY of Alabama. Mr. Speaker, the act of Congress, passed in 1864, converted the deserted old Hall of the House of Representatives into a national gallery. Under the provisions of that law each State of the American Union has the legislative authority to select from among her celebrated dead the two citizens most worthy the honor of occupying a place in that historic Chamber, rendered sacred by enduring statues, which recall the traditions and tell the story of our national life—of battles fought and victories won by the courage, and of liberty preserved by the genius, of Anglo-Saxon manhood.

A world-renowned Roman orator once declared:

> I hold that no man deserves to be crowned with honor whose life is a failure. He who only lives to eat and drink and accumulate money is

a failure. The world is no better for his being in it. He never wiped a tear from a sad face, never kindled a fire on a frozen hearth. I repeat with emphasis he is a failure. There is no flesh in his heart. Let no such man be honored.

But the converse of the proposition is equally true. It is our bounden duty to devise adequate measures to the end that the worthy great shall not be forgotten. To perpetuate in stone or marble or bronze or brass the memory of those who have rendered distinguished service to their country, to science, or humanity is an imperative responsibility that can not be evaded. It is a laudable purpose to erect statues or build monuments to commemorate the valor, patriotism, or useful deeds of our illustrious dead on the bloody fields of war and in the busy pursuits of peace; to the soldier, statesman, orator, jurist, philosopher, scientist, artist, historian, poet, humanitarian, and philanthropist; to the captains of industrial development and commercial enterprise, as well as to those unselfish members of society who devote their lives and spend their fortunes in relieving suffering humanity. To keep from oblivion "the immortal names that were not born to die" is but a paltry recognition of the never-ending obligation posterity owes to them.

In yon Hall of Fame are costly memorials, contributed by the different States of the Union, which will serve to keep fresh in our memories the heroic endeavors put forth by our intrepid forefathers in subduing the wilderness, in conquering the savage red man, in resisting cruel oppressions, in protecting popular rights, and in preserving constitutional liberty. These monuments perpetuate the virtues and the valor of the brave, free, independent, and Christian men who built this magnificent Government of ours in a form so grand and enduring as to excite the wonder and challenge the admiration of the civilized world.

The sovereign State of Kansas has placed in Statuary Hall a marble effigy of John J. Ingalls, as one of her two most useful and eminent citizens; and her sister States, through their representatives in Congress assembled, delight to share in his greatness and renown, in his glory and fame, as a common heritage of a common country, and are here to-day to participate in the interesting exercises which solemnize this occasion, and to assist in doing honor to the memory of this extraordinary character.

In this connection we are reminded of those beautiful lines in Gray's Elegy:

> The boast of heraldry, the pomp of power,
> And all that beauty, all that wealth e'er gave,
> Await alike the inevitable hour.
> The paths of glory lead but to the grave.

A plaintive poem, more expressive of lamentation than even this funeral song, is contained in Ingalls's own words. In one of his characteristic obituary addresses pronounced in the Federal Senate he exclaimed:

> In the democracy of the dead all men are equal. There is neither rank nor station nor prerogative in the republic of the grave. At this fatal threshold the philosopher ceases to be wise and the song of the poet is silent. Dives relinquishes his millions and Lazarus his rags. * * *
>
> Here at last is nature's final decree in equity. The wrongs of time are redressed. Injustice is expiated, the irony of fate is refuted, the unequal distribution of wealth, honor, capacity, pleasure, and opportunity, which make life such a cruel and inexplicable tragedy, ceases in the realm of death. The strongest there has no supremacy and the weakest needs no defense. The mightiest captain succumbs to that invincible adversary, who disarms alike the victor and the vanquished.

One of the bravest and brainiest spirits that ever dwelt on earth passed forever from the walks of men when John J. Ingalls breathed his life away. His personality was picturesque. His bearing, always stately but never haughty nor supercilious, was that of the dignified patrician conscious of his own honorable lineage and proud of his noble blood. His ideals were sublime and soul inspiring. "Wrapt in the solitude" of his own uplifting thoughts, his feet trod the rugged trails along and across high mountain tops, far beyond "the hoarse clamor of demagogues," where alone he might breathe heaven's pure air and commune with Nature's God, learning the divine truth that the murky cloud, which brings to-day a blessing while it hides the light, is but the merest shadow His great love draws out and His own glorious rainbow of promise consecrates forever; up yonder close to the shining stars, where

> Each purple peak, each flinty spire,
> Is bathed in floods of living fire.

His form towered above the common range. Classical and serene was his brow. Wisdom gave to his face "an ornament of grace." He wore upon his head the dignity of kingly power; his soul possessed a dauntless heroism. The lordly virtues of truth and courage led him in honor's pathway and committed to him an everlasting "crown of glory." These attributes proclaimed him while living a prince among men. As was said of another:

> All things adorned Aristippus—appearance, size, manners, and everything else.

Nature with lavish hand decorated him in such marked degree that he could not avoid arresting the gaze of mankind, even in the company of thousands.

He was patriotic from principle, and not in the narrow sense of personal or political advantage. His life was spent in the service of his country, and in the loftiest places of trust and honor he never failed to discharge his full duty as a statesman. "No pent up Utica" defined the boundaries of his allegiance. The whole Union, irrespective of territorial lines, was the object of his affection. He was a friend of freedom—a lover of liberty everywhere. While he believed he could best promote the prosperity of the land by belonging to the Republican party, he refused always to favor any policy which might benefit one section at the expense of another.

A striking illustration of his broad-gauged American conservatism was furnished during his senatorial career. Partisan animosities grew bitter and sectional strife ran at its flood, resulting in an effort by Congress to enact a force bill. The southern people remember with feelings of intense gratitude that his vote was potential in defeating that hurtful measure.

His life and life's work were unique. His individuality embraced an aggregation of characteristics peculiarly his own. I shall not attempt to sketch them, because that will be done by others more competent to speak, some of whom were actors with him in the stirring scenes of the past, in which he was always a shining figure. "Nature was so prodigal to him in her gifts that they shone in clusters." In a word, he was a resplendent genius.

We are told that from his earliest boyhood he discovered rare and radiant talents. He had a penetrating intellect, a powerful memory, and a dazzling imagination. He soon won the approbation of the people amongst whom he lived by his affability, marvelous learning, matchless eloquence, and splendid attainments. Self-poised and superbly equipped, both in mental and bodily powers, he readily eclipsed in public speaking all his competitors for popular favor. He finally reached the goal of his ambition, the Senate of the United States, a body which Senator MORGAN of Alabama has pictured as a chamber where legislation is enacted not only directly affecting the welfare of 80,000,000 people, "but influencing the councils of kingdoms and determining the fate of empires;" a legislative body "not less powerful than the greatest tribunals that have ever assembled, the scope and majestic sovereignty of whose power is beyond description in words or by reference to any other systems of government."

Conspicuously able, of commanding and gracious presence, possessing an attractive individuality, fluent in speech, ready in debate, and without a rival in repartee he easily forged to the head of that class of statesmen who then stood in the front rank and were enrolled in the highest grade. With him life was no "iridescent dream."

It was said of Cicero that his chief art lay in the application of existing materials, in converting the disadvantages of language into beauties, in enriching it with circumlocutions and metaphors, in pruning it of harsh and uncouth expressions, and in systematizing the structure of a sentence. This constituted him the greatest master of composition the world has ever known.

This summary is an accurate description of John J. Ingalls.

The majesty and splendor of his eloquence will live until this Republic shall have perished from the face of the earth. While his style was remarkable for versatility, lucidity, and ease, yet in affluent, copious, and graphic diction he has never been surpassed in either branch of Congress. His gorgeous vocabulary, sparkling with the brightest jewels of thought, was not excelled by that intellectual giant, the imperious Conkling. In beauty and elegance of expression, in the logical and analytical treatment of his subjects, as well as in the harmonious arrangement of his sentences, he was the equal of that brilliant Southerner, the gifted and knightly Lamar.

He was the perfect orator.

His methods adapted themselves with singular felicity to every class of subjects, whether lofty or familiar, philosophic or forensic. Nothing could exceed the exquisite taste of his laudatory orations, imparting to the subject inexpressible grace and delicacy, and filling it to repletion with philosophical sentiments, pathos, and tenderness. His extraordinary facility of speech enabled him to express the most novel and abstruse ideas with rhythmical precision and exuberant richness; but in philippics his talents were displayed to the best advantage. Ardently patriotic himself, personally and officially clean handed,

of dogged courage, daring and aggressive in action, impatient of every form of sham, despising frauds, hating humbugs, with the biting sarcasm of a Tom Reed and the exasperating wit of a Thad Stevens, he was, when occasion required him to strike, terrific in exposing a hypocrite or in flaying a political enemy well-nigh to death. In the acuteness of his perceptions he had no superior; and no man was his peer in the earnestness with which he pressed an advantage, or the adroitness with which he repelled the attacks of all opponents, no matter the guise they wore or the quarter from whence they came.

After a senseless political upheaval had retired him from the Senate a friend who knew him intimately and loved him fondly described him thus:

As an orator he was never tiresome; as a politician he never straddled; as a partisan he never strained his fealty. He did not prose and drone to empty benches; he did not depopulate the galleries; he did not drive his brother Senators into exile. He neither rested his own mind nor permitted the minds of his hearers to repose while he was speaking. He charged the air with intellectual ozone.

There was nothing little, or dull, or insincere about the man. "He dwelt not in the gutter. He sought his quarry in the opalescent empyrean and struck and slew it there." But he engages our affections by the integrity of his public conduct, the purity of his private life, the loyalty of his personal friendships, and the warmth of his domestic attachments. Such a legacy is priceless. "The topaz of Ethiopia shall not equal it; neither shall it be valued with pure gold."

Mr. Speaker, our characters are formed and sustained by ourselves, by our own actions and purposes, and not by what others may think or say or do.

When the fortunes of political warfare turned against John J. Ingalls, he was patient, forbearing, and resigned on philosophic principles.

His disciplined intellect taught him to submit to the inevitable and irreparable, because he believed in destiny. Misfortunes could not overwhelm him. His life had been adorned, elevated, and ennobled by the pursuit of worthy ends. He had not drifted about like a rudderless ship, buffeted by the winds of circumstances and entirely at the mercy of the waves. He had not with folded arms waited for opportunities, but had labored so faithfully and successfully as to attain golden results.

When the Alps intercepted his line of march, Napoleon said: "There shall be no Alps." When difficulties beset him, Ingalls said, "There shall be no difficulties," and opposition vanished at his touch.

Greatness has in its lexicon no such word as fail. It will work; it must succeed. At the sunset of life the swift-footed years brought before him no array of squandered opportunities.

His soul was too great to be wounded by the evil shafts of fate; but he has—

Gone past the fret and fever of life.
All of his songs have been sung,
And his words have been said;
And if bitterness lived in his soul once, or strife,
They now are dead.

And to-day, after the lapse of years, the Congress of the United States is proud to accept a wondrous likeness, chiseled out of parian marble, of this great man and give it a perpetual abiding place in the Temple of Fame as that of Kansas's honored son, who, while living, by his ability, eloquence, learning, patriotism, and public services best ornamented and glorified the history of that splendid Commonwealth.

"Life and honor have equal title."

In thus cherishing the memory of John J. Ingalls, Kansas confers upon herself, her people, and the nation a merited and imperishable honor. [Loud applause.]

Mr. HAMILTON. Mr. Speaker, in 1864 the room in this Capitol now known as "Statuary Hall" was set apart as a place to which each State might send "the effigies of two of her chosen sons in marble or bronze to be placed permanently here."

At most not many may come here to stand in bronze and marble while the ages go by.

What, then, are the elements of greatness in John James Ingalls that entitle him to come from Kansas here and join this marble and bronze society of the superlatively select?

It is not because Ingalls was for eighteen years a Senator of the United States from the State of Kansas, and while Senator was part of the time President pro tempore of the Senate, or because he held other offices that Kansas erects his statue here.

It is not great to hold political place. States do not set up monuments to men who get offices.

It is not greatness per se even to be a United States Senator. Very mediocre men have sometimes been United States Senators.

A place in the Senate of the United States is an opportunity, and to be a Senator is great as Senators make it great. Ingalls made it great.

His life was part of the annals of Kansas and part of the annals of our national life, and he commanded the constant attention of the people of the United States for many years.

As Guizot says of an eminent Frenchman: "He was internally garnished with mind and externally with speech."

He was a student of books, a student of nature, and of humanity. He gave dignity and force to language.

He was master of "skillful dialectic and literary good form."

He gave some things to prose that the world will not willingly let die and which have already become classics, and to poetry he added one perfect sonnet.

Most things die, disintegrate, and disappear, but "Opportunity" will decorate the English language as long as it is spoken, and if in some far-off time it were possible for our language to become a dead language this sonnet would be translated as an imperishable gem.

His talent glittered sometimes as a diamond does, sometimes as fire does, and sometimes as ice does.

His words cut sometimes like polished steel, or clung and blistered like coals of fire, and sometimes they were cold, acrid, and corrosive.

Always there flashed through his matchless sentences the summer lightning play of fancy, and they were pervaded by a sense of humor which at times invited sociability until it sharpened into sarcasm.

And then again he strung the sinews of the mind to energy and enterprise, strengthened patriotism, fired the brain, warmed the heart, and quickened conscience.

With some orators and writers facts travel leaden footed, but Ingalls gave to facts life, color, vitality, and wings.

As was said of Burns, "his speech was distinguished by always having something in it."

There have been greater lawyers, greater poets, greater philosophers, greater orators, and greater statesmen than he, but Ingalls swept law, philosophy, poetry, and statecraft into his own intellectual crucible and transformed them into a new intellectual composite, stamped with his own originality into something unique and rare, and that was Ingalls.

For a long time Ingalls meant Kansas and Kansas meant Ingalls.

Once in the Senate of the United States, Kansas being attacked by a Senator from Pennsylvania, Ingalls shot back the swift retort that Pennsylvania had "produced but two great men—Benjamin Franklin, of Massachusetts, and Albert Gallatin, of Switzerland."

Whether this was true of Pensylvania or not, it is true that, among other great men, Kansas has produced at least one great man from Massachusetts.

Ingalls was born in Middletown, Mass., December 29, 1833, and came to Kansas in 1858, three years before Kansas became a State, allured by a real estate agent's "chromatic triumph of lithographed mendacity."

Ingalls had this lithograph framed, and it hung upon the walls of his home long after Kansas had begun to realize a greater prosperity than that with which "the Pilgrim Fathers of Kansas," in the epoch of Ingalls's arrival, beguiled "the dazzled vision of the emigrating public."

He lived through the period of blanket Indians, "Jayhawkers," grasshoppers, and predatory politicians.

He lived in Kansas and Kansas lived in him "till death had made him marble," and somehow he absorbed the spirit of Kansas, and by his genius transmuted, glorified it, and gave it back to Kansas in pictures of herself that urged her people on to nobler enterprise.

Ingalls was not only a Senator of the United States from the State of Kansas, but he was Kansas' minstrel in prose, who told at every Kansas fireside the epic of her life and stirred the Kansan heart to pride and high endeavor.

Since then our frontier has pushed westward around the world to the doors of the oldest civilization, converting in its wake the sod house, the dugout, and the corral into comfortable farm houses, barns, and granaries.

The Mississippi River, once, as Goldwin Smith says, "a mental horizon, afterwards a boundary line," has become a great tal horizon, afterwards a boundary line," has become a great soon be directly tributary to the world's greatest commercial highway, where the ships of all nations shall come and go between the Occident and the Orient, through the Panama Canal.

And of this transition the life of John J. Ingalls was a part.

His picture has hung upon the walls of dugout and of mansion and is fixed in the memory of every living man and woman in Kansas.

His words have found a permanent lodgment, not only in the literature of the world, but in the hearts of the people of Kansas, now and for all time.

Hence Kansas erects his statue here.

But if Kansas had not set his statue here, people would have asked: "Where is Ingalls?" and would have supplied his place with memory and imagination as Cato hoped the world would do of him if his statue were not erected in the Forum.

We gather around his statue, who was once "emperor in the realm of expression" in the line of succession of those who reign by right of genius and of labor. There have been others who were greater than he, but for a time he held the scepter.

And we seek to frame phrases of the greatest phrase maker of his time.

We grope for words of fitting eulogy of him whose eulogies rescued from oblivion those of whom he wrote.

"Pictures and statues may be made of him, but he returns no more to the sun."

He died August 16, 1900, before he began to cast the senile shadow of a robust past. "Sometimes, by living on, the star pales."

He died just at the end of summer, just at the beginning of autumn, and a little before winter.

He died near the end of one century and the beginning of another, in the midst of time, which, according to man's calendar, is eternally beginning and ending, and yet is without beginning and without ending forever.

Ingalls speculated deeply on the "unending, endless quest" for immortality; but no man realized more clearly than he that "the philosopher's longest chain of deductions" reaches no conclusion.

He realized—none more clearly—that, as Carlyle says: "Skepticism writing about belief may have great gifts, but it is really ultra vires there. It is blindness laying down the laws of optics."

And Ingalls reached the conclusion that "a universe without a God is an intellectual absurdity which reason rejects spontaneously."

In his essay on the "Immortality of the soul" he says: "If all the letters in the play of Hamlet were shaken in a dice box and thrown at midnight in a tempest on the Desert of Sahara, they might fall exactly as arranged in the drama. It may be admitted that if Destiny kept on casting long enough, they would inevitably at some time so fall, which would render the bard of Avon superfluous and unnecessary. But this does not disturb our belief in Shakespeare."

In June, 1900, away from home, seeking the return of health which never came, he wrote: "I am desperately tired and discouraged and homesick;" and forty days later, on his deathbed, after all the groping, speculation, and reasoning were over, he came back to the faith of little children and prayed: "Thy kingdom come; Thy will be done." [Loud applause.]

Mr. SCOTT. Mr. Speaker, in the midst of Asgard, the home of the old Norse gods, so the legend runs, there stood the great Walhalla, the battle hall. Its massive walls rose skyward until the battlements and towers that surmounted them were lost to view. Through each of its 540 doors 800 men, mounted and mailed, could ride at once. To this splendid and majestic hall came all the warriors who had fallen in battle, and there, in the presence of the great god Odin, the days were spent in fencing and tournaments and other kingly sports, and the nights in feasting and song.

Advancing enlightenment and civilization have exacted their penalties, and we can no longer frighten our souls with visions of "fierce, fiery warriors that fight upon the clouds in ranks, squadrons, and right forms of war," nor charm our fancy with dreams of the old gods at play.

And yet we have our Walhalla. The hard materialism of this later day, the garish light of scientific research and analysis which has robbed us of the illusions and romance that hung about the twilight of the race, have not banished from our hearts the sentiment of reverence for the memory of our country's mighty dead. And so most fittingly there has been set apart in this noble structure, which is the very heart of the nation, a stately and spacious chamber to which the States may bring for a loving and everlasting memorial the bronze or marble effigies of those who, while they lived, were the choice and master spirits of their age. Hither have they come, statesmen, soldiers, sages, to stand in simple majesty as long as stands the Republic for which they wrought and thought, an inspiration forever to their countrymen, a perpetual witness of the nation's gratitude to those who have served her well.

Into this Hall of Remembrance, into this goodly company, Kansas brings to-day the speaking likeness of one who, more than any other of her sons, was the incarnation of her sentiments and convictions, her hopes and ambitions and dreams. For nearly a quarter of a century he was her voice speaking to the nation, and the voice never fell upon reluctant or inattentive ears. For more than a quarter of a century he was her lover, unflagging in his devotion, her champion, challenging with unwavering loyalty all who sought to detract or defame. And now that the voice is still with which he spoke his love and loyalty, she brings here this living likeness of his outer form to stand through all the coming time, mute but eloquent, a memorial of her gratitude and pride.

In some small degree a man is the product of his environment. In much greater measure he is the resultant of ancestral convictions and culture and point of view. When John James Ingalls went to Kansas, almost at the climax of the brief but bloody drama which proved, alas, but the prologue to the stupendous tragedy which was to be played out a little later with half a continent for its stage, with 4,000,000 men for its actors, with all the world for spectators, and with the thunder of countless cannon for its orchestral music, he found himself in an environment which fitted in well with the ancestral forces that had gone to the shaping of his soul. The spirit of daring and adventure which drove his Viking forbears to the conquest of Britain, and which, a thousand years later, impelled their descendants to brave the dangers of a stormy and tempestuous sea to reach the doubtful haven of a new world, lived again in the youth who left the quiet safety of the secluded New England village to face alone the terrors and hardships of the savage and desolate frontier. The fierce resentment against oppression and outrage which had come down through generations of men who had blotted the word master out of their vocabulary was aroused anew by the call for help for freedom. The organizing instinct of a race of nation makers, of empire builders, found exultant exercise in the opportunity to have a hand in laying the foundations and shaping the destiny of a new Commonwealth. And in the rugged beauty of the wooded bluffs that guard the eastern border of Kansas, in the vast stretches of her limitless western plains, in the incomparable blue of her arching skies, the poet in this man, the development of a hundred years of refinement and culture, found a fascination that never released him from its spell.

And so it is not strange, after all, that this New England scholar, patrician to his finger tips, born friend of all the luxuries and refinements of life, shrinking instinctively from rudeness and violence as from hardship and exposure, found himself at home in Kansas at a time when that name was but another word for tumult and riot and disorder. The fight for freedom exhilarated him like wine. The joy of State building quickened all his mental energies. The "unknown and mysterious solitudes" of the wide-sweeping prairies stimulated his imagination with a power that he could not resist.

In his own matchless phrase, describing the fascination which Kansas exercised upon him, and upon all who came within her spell, he said:

> The Arabs say that he who drinks of the waters of the Nile must always thirst; no other waters can quench or satisfy. So those who have done homage and taken the oath of fealty to Kansas can never be alienated or forsworn. * * * As the gray and melancholy main to the sailor, as the desert to the Bedouin, as the Alps to the mountaineer, so is Kansas to those who love her.

But Ingalls fitted Kansas no less than Kansas fitted him. Nervous, energetic, fond of superlatives, given to extremes, tremendously aspiring and ambitious, sometimes wrong, but always seeking to be right, Kansas recognized in Ingalls a kindred spirit, for many of her characteristics were his also. He felt her moods; he foresaw her conclusions; he spoke her language; he satisfied her passion for the picturesque and unusual; he captured her imagination. And though she quarreled with him sometimes and criticised him often, and at the last, in a period of cyclonic unrest and unreason, rejected him, yet down in her heart she loved him always and gloried in him and was supremely proud of him.

For eighteen years he was a Senator of the United States, and although there were numbered among his contemporaries such intellectual and forensic giants as Sherman and Conkling and Blaine and Carpenter and Hoar and Thurman and Voorhees and Vest and Morgan and Hill, he did not suffer obscuration or eclipse. In the chair he was a superb presiding officer, ready, alert, incisive, impartial. On the floor the mere announcement that Ingalls was to speak brought every Senator to his seat and filled the galleries with thronging and eager listeners, and that, too, in an age when oratory is said to be a forgotten art. In debate he was aggressive and pitiless, unsparing in attack and incredibly skilled in defense, a foeman of whom the boldest might well beware.

But great as he was on the platform and in the forum, it was in the realm of letters that he struck and sustained the

loftiest notes in thought and speech and builded the most enduring monument.

Those of us whose good fortune it has been to hear him and see him can never forget the music of that marvelous voice or the light that flamed from the wonderful eyes or the splendid poise of the noble, silver-crowned head, and the glamour of his fascinating personality will be thrown for us who knew him over all that he wrote or spoke, giving it a special meaning and significance. With the passing of this generation the memory of the voice and eye and manner will fade, and yet to those who come after us a splendid legacy will remain to keep green the memory of one whose mastery of the English tongue has not been equaled in our day.

For what a wizard with words he was! No matter how hackneyed the theme or how conventional the thought, he arrayed it in such stately and splendid apparel that it stands forth as individual and distinct as if it had never before had an existence. To select from all the glittering heap of his jewels one gem that shines with a purer ray than the others is not an easy task, and yet whenever I take up his writings I find myself turning always to the story of the grass:

Grass is the forgiveness of nature—her constant benediction. Fields trampled with battle, saturated with blood, torn with the ruts of cannon, grow green again with grass, and carnage is forgotten. Streets abandoned by traffic become grass-grown, like rural lanes, and are obliterated. Forests decay, harvests perish, flowers vanish, but grass is immortal. Beleaguered by the sullen hosts of winter, it withdraws into the impregnable fortress of its subterranean vitality and emerges upon the first solicitation of spring. Sown by the winds, by wandering birds, propagated by the subtle horticulture of the elements, which are its ministers and servants, it softens the rude outline of the world. Its tenacious fibers hold the earth in its place, and prevent its soluble components from washing into the wasting sea. It invades the solitary deserts, climbs the inaccessible slopes and forbidding pinnacles of mountains, modifies climates, and determines the history, character, and destiny of nations. Unobtrusive and patient, it has immortal vigor and aggression. Banished from the thoroughfare and the field, it bides its time to return, and when vigilance has relaxed, or the dynasty has perished, it silently resumes the throne from which it has been expelled, but which it never abdicates.

I do not know anything in English prose sweeter and finer than that, and I do not know anything stronger and richer in English poetry than the single sonnet, "Opportunity," with which he enriched the literature of all coming time.

Master of human destinies am I!
Fame, love, and fortune on my footsteps wait.
Cities and fields I walk; I penetrate
Deserts and seas remote, and passing by
Hovel and mart and palace, soon or late
I knock unbidden once at every gate!
If sleeping, wake; if feasting, rise before
I turn away. It is the hour of fate,
And they who follow me reach every state
Mortals desire, and conquer every foe
Save death; but those who doubt or hesitate,
Condemned to failure, penury, and woe,
Seek me in vain and uselessly implore.
I answer not, and I return no more!

That the shadow of oblivion should ever fall upon the memory of the man who added such perfect notes to the world's harmony is unbelievable.

He knew language, one of his friends said, as the devout Moslem knew his Koran. All the deeps and shadows of the sea of words had been sounded and surveyed by him and duly marked upon the chart of his great mentality. In the presence of an audience he was a magician, like those of Egypt; under the power of his magic syllables became scorpions, an inflection became an indictment, and with words he builded temples of thought that excited at first the wonder and at all times the admiration of the world of literature and statesmanship. He was emperor in the realm of expression. The English-speaking people will listen long before again they hear the harmony born of that perfect fitting of phrase to thought that marked the utterances of John J. Ingalls.

The one sure test of the worthiness of a man to hold high place is to note the level to which he rises or sinks when retired to private life. The man who drifts into unnoted obscurity when no longer buoyed up by an important office, thereby demonstrates that it was the office which brought the man into view, and not the man who exalted the office. Senator Ingalls stood this test. Thrust from the commanding eminence of the greatest earthly parliament, he lost not one line of his stature. Great newspapers were eager to put him upon their staff at twice the salary he had received as Senator. Magazine editors besieged him for articles and lyceum managers lay in wait to allure him onto the lecture platform. In all the cities of the land where he could be induced to speak the people thronged to hear him, and what he wrote was sought for by his countrymen with undiminished interest. And so his star never waned, but grew brighter and brighter until suddenly, and all too soon, it swept below the horizon of this life to rise upon another world.

I have spoken of Ingalls, the public man—the Senator, the writer, the lecturer—the man whom all the world knew. To speak of him as the husband and father, the citizen and friend, I shall not venture, although I knew him well. Fearless, positive, aggressive, armed always and ready to deliver as well as receive attack, it was inevitable that he should excite strong antagonism, and while he lived the tongue of calumny was rarely silent. There were those who said he was cynical and selfish. I only know that one of his neighbors said: "The light in the windows of Atchison went out when Ingalls died." There were those who said he was indifferent and cold-hearted. I only know that his children adored as much as they honored him, and that to the wife of his youth he remained to the end a hero and a lover. There were those who said he was a scoffer and a misbeliever. I only know that one early summer morning, as the rosy fingers of the dawn were lifting the sable curtains from the somber New Mexico hills, with his hand in the hand of his true love and his fainting lips repeating after her his childhood prayer—"Our Father who art in heaven"—he fell asleep.

All that was mortal of him lies within the soil of the State he loved so well, in the city of the home which was the shrine of his life's devotion, which he left always with regret and to which he returned with joy. Somewhere in God's universe, in the undiscovered country, his serene soul rests—and waits.

And Kansas, "who was first in his hours of triumph, who shared his well-won laurels, who basked in the sunlight of his success and partook of the fruits of his victories," brings to-day to the nation's Hall of Fame this marble likeness of his outer form as a perpetual witness of her love and pride. Other men have rendered Kansas noble service. Other men will win her affection and good will. But deep in her heart, as she remembers all the pride and exultation that swelled her soul in the old days when men spoke the name of John James Ingalls, she will exclaim with Hamlet:

He was a man, take him for all in all,
I shall not look upon his like again.

[Loud applause.]

Mr. CAMPBELL. Mr. Speaker, the consideration of appropriations, revision, rates and rebates, is laid aside the while we reflect upon death, and attempt, in the only way we can, to give immortality to life. The ceremonies of this hour deal with the fact of death and the question of immortality.

Everywhere, in field and mart and from the cradle to the grave, life is at war with death. It is an unequal encounter. The millions who have come involuntarily to the cradle have gone involuntarily to the grave. The strong are as impotent in the struggle as the weak. Thrones and empires are not citadels of defense for kings and emperors. The hovel and the shack furnish no refuge for the poor and helpless. Soon or late, all lie down together in the "democracy of the grave."

Senator Ingalls has tried the problem of life and solved the mystery of death. While busy with care, anxiety, hate, love, ambition, he often paused to ask with the sages, philosophers, and prophets of the ages, "If a man die, shall he live again?"

There has ever been, and is, much consolation in the fact that the question of the soul's immortality is not left for answer to the wise, whose bodies rest in abbeys of renown and whose statues adorn halls of fame, more than to the simple who come and go without the notice of the passing crowd. To the innumerable multitude "the heavens declare the glory of God, and the firmament showeth His handiwork;" to the great throng "succeeding days are eloquent with speech and night unto night resplendent with knowledge." Though there is no voice or language, immortality is written everywhere upon the earth and in the heavens.

May we not hope that all the countless dead now know the truth declared by Jesus of Nazareth, that the soul shall never die? If it were not so, why this effort to perpetuate in marble an effigy of dust? Why did he, to whose image we give fame, devote so much of time and draw upon so much talent to rear for himself a monument that shall remain when the marble we unveil shall be veiled again with the dust and ashes of ages?

The drapery of night is hung from the horizon with a star.

I had no personal acquaintance with Senator Ingalls, and saw him only a few times, but I have always been proud of the fact that he was a Kansan and loved Kansas.

It has been said of him that during his eighteen years' service in the Senate he did not frame or secure the passage of an important measure. However that may be, he did enough; enough at once for his own fame and for the glory of his State—"Satis, Satis est, quod vixit, vel ad ætatem, vel ad gloriam."

He excelled in everything he did. There was nothing to be said when he was done with eulogy; nothing could be added when he finished invective. He was master of English, whether speaking or writing. His friends listened with pleasure and his foes with admiration when he addressed the Senate. His words were so fashioned into clauses and periods, paragraphs,

and orations, that what he said was alike intelligible to the crowd and entertaining to the critic.

An old man, who had been a visitor to the Senate gallery for a period covering forty years, said, soon after Ingalls's retirement: "Ingalls, of Kansas, attracted greater audiences, both to the floor and the galleries, when he spoke than any Senator who had been a member in forty years, and none ever presided over the deliberations of that great body with greater ease and dignity than he." A woman who has lived in Washington ever since Ingalls entered the Senate said a few days ago she had never heard him make a speech that had been announced. The galleries were always crowded when she arrived.

I shall leave a delineation of his character and a review of his work to those who knew him better than I.

Kansas honored Ingalls and Ingalls honored Kansas.

Few loved him, many feared him, but all admired him. He loved his home and was bound by its ties. He loved his State and gloried in its history. He loved his country and was devoted to its institutions. He returned too early to the skies.

[Loud applause.]

Mr. MILLER. Mr. Speaker, the world's post-mortem estimate of man's character is not usually in harmony with its ante-mortem conception. It is only when prejudice, factional feelings, and jealousies have been stilled by the hand of death that man's correct measure is taken. It is then he is viewed in the impartial light of history, neither glamour nor gloom lending tint to the true estimate of his character and worth as a man and citizen. It is then the merited recognition is bestowed that rarely comes to him while in the midst of his activities and at last he is awarded his true place in hearts and memories, and he lives on. To live thus is not to die, and to any man it is a priceless monument. But to those whom a nation delights to honor, who have made their impress for good upon their country's history and who, in a measure, belong to all her people, it is indeed fitting that their deeds should be commemorated by public ceremonies and their memories perpetuated in marble and bronze to inspire patriotism in the hearts of future generations.

In pursuance of this idea a law was enacted by Congress in 1864, authorizing the President to invite all States to furnish statues in marble or bronze, not exceeding two in number for each State, of deceased persons, who have been citizens thereof and illustrious for their historic renown or for distinguished civil or military services, to be placed in the National Statuary Hall.

In compliance with this resolution, Mr. Speaker, Kansas has presented and asks Congress to accept a marble statue of her illustrious son, John James Ingalls, the scholar, writer, orator, and statesman.

The facts in connection with the early history of Mr. Ingalls and his ancestry have a significant bearing upon his public career. He was born in Middleton, Mass., December 29, 1833, of unmixed Puritan ancestry and the eldest of a family of nine children.

On his father's side he was descended from Edmund Ingalls, who, coming from England, founded the city of Lynn in 1628. And through his mother his ancestry in this country goes back to Aquila Chase, who settled in New Hampshire about 1630. His parents were high types of the English Puritan, his father being a man of unusual intelligence. Doubtless from him the son inherited those mental activities that characterized his entire life. It is said that at the age of 2 years the child Ingalls could read understandingly.

His school life began in the public schools of Haverhill. At 16 he was under the instruction of a private tutor, and at the same time was a frequent contributor to literary magazines and to local metropolitan newspapers. Among the former was the Knickerbocker Magazine and the Carpet Bag, published by B. P. Shillaber, commonly known as "Mrs. Partington."

He was a graduate of Williams College in 1855, and twenty-five years later his Alma Mater chose him to deliver the annual address and at this time conferred upon him the degree of Doctor of Laws.

He was admitted to the practice of law in 1857, and in 1858 he went to the Territory of Kansas. Of this event he said:

> My studies completed, I joined the uninterrupted and resistless column of volunteers that marched to the lands of the free.
>
> It was the mission of the pioneer with his plow to abolish the frontier and to subjugate the desert. One has become a boundary and the other an oasis. But with so much acquisition something has been lost for which there is no equivalent. He is unfortunate who has never felt the fascination of the frontier; the temptation of unknown and mysterious solitudes; the exultation of helping to build a State, of forming its institutions, and giving direction to its cause.

Mr. Ingalls gave to Kansas the first affection of his young manhood. He loved Kansas from the day he crossed the invisible line that separates her from Missouri until the night he crossed that other invisible line that separates time from eternity. Next to wife and family, Kansas was first in his thoughts when honors were bestowed upon him and the world applauded. Kansas was last in his thoughts when life's fitful fever ebbing low his tired heart yearned for home and Kansas.

And how could it be otherwise, when for forty years the threads of his life had been woven in the warp and woof of the State he had aided in an unparalleled struggle for freedom; the State he had been a factor in as her prairies were transformed into fruitful farms with churches and schoolhouses on every hillside, and with prosperous towns dotting her 81,000 square miles of territory. What wonder his heart yearned for the State he had helped make a really great State, for, in the language of Governor Hoch,

> The real greatness of a State is not measured by its territorial extent, not by its material resources, but by its code of laws and by the character of its people. Nowhere has advancing civilization crystalized in better government, or flowered in a higher citizenship. Illiteracy has found its lowest percentage here, and crime its most meager statistics.

This is the Kansas Mr. Ingalls loved. He was present at her birth and imbibed her spirit of liberty, and it was this State, his choice of all the nation's Commonwealths, that he sought to crown with glory during all the years of his manhood.

That Mr. Ingalls should be reckoned with as a power in politics and that he should be a potent factor in framing the State constitution in the Wyandotte convention in 1859, was inevitable. His keenness of penetrability, promptness in decision, honesty of purpose, unswerving loyalty to what he believed to be right, absolute fearlessness and independence of thought and action, with his intense nature, made his a positive character and him a representative man.

> And there he stands in memory to this day, erect and self-poised—
> A witness to the ages as they pass,
> That simple duty hath no place for fear.

In 1872, when the turn of fortune's wheel inserted a dramatic chapter in the history of this State of conflict, where, from the beginning of her history, every advance step has been combatted, it was again inevitable that Mr. Ingalls should be chosen to enter the breach, by the joint branches of the legislature; and thus begin a career in the United States Senate, unprecedented and unparalleled.

The finger of destiny had long pointed in this direction. As a close student of politics, as editor of the Atchison Champion, and as a member of the State senate, Mr. Ingalls was being prepared for the high obligations this election placed upon him. For almost twenty years he was one of the most conspicuous figures at the nation's Capitol, always serving his State and country with self-reliant courage and faithfully performing his duties as chairman of Committee on Pensions; of the District of Columbia, and of Special Committee on Bankrupt Law; as a member of the Judiciary, Indian Affairs, Privileges and Elections, Education and Labor, and of many other special committees.

Among the many Members of both Houses of Congress who have championed the cause of the soldier of this Republic the soldiers themselves owe to none a deeper debt of gratitude than to Senator Ingalls, who at all times while in public life was earnest and untiring to secure for those men who had imperiled life and health to save the nation the relief to which he thought they were justly entitled.

He was the author of the arrears act, which was the means of giving $200,000,000 to the surviving veterans of the civil war. This act was of inestimable value, particularly to the people of the West, for more than $10,000,000 received as the result of this legislation was devoted to the lifting of mortgages and the saving of homesteads of the people of Kansas and other Western States. This act alone will stand as a monument to its author in the hearts of the loyal and patriotic people of this country as long as one of her soldiers live.

Senator Ingalls was a pioneer upon advanced ideas. He was at all times a friend of labor and agriculture; was an earnest advocate of legislation against trusts, combinations, and monopolies, and as early as 1880 he was an earnest advocate of a canal connecting the two oceans, thereby providing for cheaper transportation of our products to a foreign market.

After the passage of the electoral commission bill, which provided for a settlement of the contest between Hayes and Tilden, Senator Ingalls was designated with Senator ALLISON, of Iowa, as one of the tellers, and thus the senior Senator from Kansas was identified with what Senator Edmunds said was "a dispute probably as great as ever existed in the world under the law."

From 1889 to 1891 Mr. Ingalls was President pro tempore of the Senate. Seven times an election to this high office came to him unanimously, and in the performance of the duties of this position he always displayed the utmost dignity, impartiality, and courtesy. A past master of debate and repartee, he constantly demonstrated the most thorough knowledge of parliamentary procedure.

On his retirement the following resolution was adopted by his colleagues:

Resolved, That the thanks of the Senate are due and are hereby tendered to Hon. John J. Ingalls, Senator from the State of Kansas, for the eminently courteous, dignified, able, and absolutely impartial manner in which he has presided over the deliberations and performed the duties of President pro tempore of the Senate.

The Senate, as a further testimonial of its appreciation, presented him with the clock which had marked the time for that body from 1852 to 1890.

I quote from Mr. Ingalls's farewell speech to the Senate as its presiding officer, as follows:

Senators, gratitude impels and usage permits the Chair to postpone for an instant the moment of our separation to acknowledge the honor of your resolution of confidence and approval.

But justice demands the admission that if the Chair has succeeded in the delicate and important duties of his position; if order has been maintained in debate; if laws have been impartially administered; if promptness, facility, and correctness in the transaction of public business have been secured; if the traditions of the Senate, which are its noblest heritage, have been preserved inviolate, it is due to your considerate indulgence, to your cordial and constant cooperation. Without these the greatest abilities could not succeed; with these the humblest faculties could not fail.

Mr. Speaker, am I asked why Kansas has chosen John J. Ingalls as her first illustrious son to be represented in Statuary Hall? Is it because, as has been said, "he was one of the most unique, brilliant, and notable figures in American politics?"

This and more. His was a many-sided character. He was a scholar with all the refined taste and instincts of the scholar.

He possessed a prolific, active mind that worked like the play of lightning.

In his correct and scholarly use of language, concise and exhaustive treatment of every subject claiming his attention, his ready wit and repartee, his keen invective and biting sarcasm, he stands without a peer.

In debate he was a gladiator. In conversation he was the genial, fluent speaker and earnest and sympathetic listener, of whom it was said, "Whether he was conversing with a solemn thinker, a woman, or a 10-year-old boy, he always adapted himself to circumstances."

It has been further said of him:

He knew language as the devout Moslem knew his Koran. All the deeps and shallows of the sea of words have been sounded and surveyed by him and duly marked upon the chart of his great mentality. In the presence of an audience he was a magician like those of Egypt; under the power of his magic, syllables became scorpions, an inflection became an indictment; and with words he builded temples of thought that excited at first the wonder and at all times the admiration of the world of literature and statesmanship. He was emperor in the realm of expression. The English-speaking people will listen long before again they hear the harmony born of that perfect fitting of phrase to thought that marked the utterances of John J. Ingalls.

Ingalls was a great man. Emerson says of such an one:

I count him a great man who inhabits a higher sphere of thought into which other men rise with labor and with difficulty. * * * Who is what he is from nature and never reminds us of others.

Wade Hampton, the soul of honor and a lover of courtesy, said that he was a man of rare genius and one of the most companionable of men.

Maj. Henry Inman gave the following estimate of Mr. Ingalls:

For eighteen years, in the most illustrious deliberative assembly of modern times, his speeches have attracted the closest attention of the people by their fearless expression of thought, elegance of diction, phenomenal phraseology, and forcible style.

As a parliamentarian he was without a superior, for a longer period presiding over the deliberations of the Senate than any one man as its President pro tempore. Receiving the unanimous vote of both parties for the position, is an unparalled tribute to his impartiality, ability, and familiarity with rules, precedents, and fine points in parliamentary law.

As a designer of sentences he was incomparable. There are other Americans who are more eloquent in the rigid acceptation of the term, but in description, vigor, sparkling, passionate use of the English language he occupies a position sui generis. He was the Cicero of his generation; master of that most effective oratorical attribute in debate, sarcasm, but absolutely devoid of the inordinate vaunting of his own powers, which so marred the brilliancy of the immortal Roman.

He was one of the most fascinating of writers. To his purely literary work he brought all the brilliancy of his oratory, magnificent construction of sentences, wealth of phraseology.

Charles S. Gleed said of him:

His voice was a polished ramrod of sound, without fur or feathers, traversing space as swiftly as light, without a whir or flutter, as if shot by an explosive of inconceivable power.

In any age of the world's history Mr. Ingalls would have been distinguished. In the days of Demosthenes he would have taken high rank as an orator; in the days of Shakespeare or Milton he would have been recognized as a writer of the first rank.

When the printed words that have for a time claimed the world's attention are lost in oblivion, there will live with the sonnets of Shakespeare, Milton, and Mrs. Browning Ingalls's sonnet:

OPPORTUNITY.

Master of human destinies am I!
Fame, love, and fortune on my footsteps wait.
Cities and fields I walk; I penetrate
Deserts and seas remote, and passing by
Hovel and mart and palace, soon or late
I knock unbidden once at every gate.
If sleeping, wake; if feasting, rise before
I turn away. It is the hour of fate,
And they who follow me reach every state
Mortals desire, and conquer every foe
Save death; but those who doubt or hesitate,
Condemned to failure, penury, and woe,
Seek me in vain and uselessly implore.
I answer not, and I return no more!

Such was Mr. Ingalls as the world knew him. By many he was regarded as cold, austere, forbidding, but to the few who were able to see through the outer man there came glimpses of the spring of affection that sparkled and bubbled continually, giving a calm and peaceful undertone to his life. This was the inner man and the one known within the sacred home circle where life was ideal and where the beloved and loving companion was his most trusted friend and counselor and whose unwavering confidence in him was his inspiration and the mainspring of his existence. To the large family of bright and interesting children his intense nature manifested itself in devotion only second to that bestowed upon his wife.

In all the massages upon which the world has been permitted to glance that went out from the pen of Mr. Ingalls to the waiting family on the banks of the Missouri, this spirit of tenderest devotion is manifest.

In a letter to his sister after the death of his young daughter, Ruth, Mr. Ingalls said:

My bereavement seems to me like a cruel dream from which I shall soon awaken. The light has gone out of my life. Ruth was my favorite child. Her temperament was tranquil and consoling; she gratified my love of the beautiful, my desire for repose. I loved her most because she was so much like her dear mother. * * * I am assured we shall meet again.

In another letter he says:

I would love to gather you all around the library fire this bitter night and talk over the affairs of the day.

To his daughter Constance, absent from home at school, he wrote:

Write to me if there is anything you want. I should be your friend even if you were not my child.

In a letter after the death of Senator Sumner, he said:

How full of mournful tragedies, of incompleteness, of fragmentary ambitions and successes this existence is! And yet how sweet and dear it is made by love! That alone never fails to satisfy and fill the soul. Wealth satiates, and ambition ceases to allure; we weary of eating and drinking, of going up and down the earth looking at its mountains and seas, at the sky that arches it, at the moon and stars that shine upon it, but never of the soul that we love and that loves us, of the face that watches for us and grows bright when we come.

The life record of this illustrious man was closed in August, 1900. The devoted wife of his early manhood and mature years sustained him to the end, walking with him to the very gate of the eternal city. As the light went out this beloved companion could have said with Longfellow:

Good night, good night, as we so oft have said
Beneath this roof at midnight, in the days
That are no more and shall no more return.
Thou hast but taken the lamp and gone to bed;
I stay a little longer, as one stays
To cover up the embers that still burn.

But I must not trespass longer upon the time of this House.

Mr. Speaker, permit me to say in conclusion, that John James Ingalls living, was honored and loved by the people of Kansas, and dying, his memory is cherished in their hearts with affectionate regard, and as an emblem of this regard they have placed this statue in our Nation's Capitol and ask Congress to accept the same. [Loud applause.]

Mr. CALDERHEAD. Mr. Speaker, I regret that the duties of the last two weeks have prevented me from preparing what perhaps should have been prepared for this occasion; and yet I hope I may be able in a few minutes to bear a little testimony from the State in which Mr. Ingalls lived, the State which loved him and which he loved. After listening to the eloquent discourses of some of the Senators in the other Chamber this afternoon and to the eloquent tributes that have been paid to his character and his memory by my colleagues here, I doubt whether anything that I could say would add to the value of these services.

I have no disposition to spend any time philosophizing about the nature of life or the hope of immortality or the probability

of the life beyond. To me these things have been certain so long that it hardly seems necessary that they should be discussed. The step from this footstool before His throne only enters into that larger life of which in some way or other we are always conscious, and no testimony that has been given to us, except the testimony of Him "who spake as never man spake," can add more to our knowledge of what He has intended for us there.

I find that whoever here speaks to me of Ingalls expects that I should have known him personally, intimately, and well. I came to Kansas about ten years after he did. The great conflict of the civil war was closed, and the Commonwealth was a Commonwealth of peace, industry, and happiness when I came. Within four or five years after that time he was elected to the Senate, and I only met him at intervals of four or five years after that, until after his service in the Senate had expired. I have lived thirty-five years in the State, and I doubt whether I have had more than an hour's conversation with Mr. Ingalls in all the years that we were in the same State, we met so seldom. And yet no one of us could be ignorant of the man or of his work.

Without attempting to trespass upon your patience by repeating some of the things that have been recited from his personal history, I will ask you to bear in mind that he came to Kansas in 1858, while Kansas Territory was still the arena of the greatest moral conflict that the world has seen in our civilization. Ideas were glowing with heat in all the affairs of men. The highest thoughts were contending. Passions of men, interests of partisan politics, fanaticism were in conflict with each other and in conflict with patriotism.

Many of the men are yet living who were engaged in it then. For 50 miles inward from the Missouri border nearly every landscape had somewhere on it a stain of blood of the conflict between men in the battle for freedom, as well as for liberty. When he came the men were still living who had been engaged in that kind of a conflict, and the question of whether Kansas should be free or slave, the question of whether the nation should fight out its battle with itself and live, was yet not settled. Statesmen and orators were debating about the question of how human slavery could be extinguished in our country, under our form of government, and the Constitution be preserved. Great men argued the moral wrong of slavery, and presented it as if, in some way or other, the tremendous wrong of it ought to override the authority of law and destroy it. I will not attempt now to recount the steps by which the final conflict came—by which the final clash came. He was there—he was present when it began; he lived through it. He was contemporaneous with men of strong character and of great action. After it was all over and after the Commonwealth had been planted firmly on a foundation of peace and prosperity, he was chosen Senator from among a coterie of the strongest men, I think, who ever have opened a new Territory and builded a new State in this nation. Many elements in his character were unknown then, and some of them, perhaps, are not known yet. We lived so near him and so much in his presence we can hardly realize what elements went to make up what he really was. But now, looking at his life as he lived it, reading his words as he gave them to us, gathering some glimpses of the sphere in which he lived, it seems to me as if he had lived aloft in a higher sphere and from time to time descended to the ordinary walks and occupations of life; so that when he was engaged in the political conflicts that resulted in his election as Senator he came down from a higher plane—a higher field of thought and contemplation—and with him he brought a range of vision and of thought that does not appear to us. The whole field of ancient history, the story of the civilizations of the earth, the panorama of the nations, and the story of our race, appear to have been familiar to him and constantly with him. He seemed to have had them in contemplation every time he thought or spoke of the purpose and life of this nation.

He was a Puritan, and his fathers for three centuries had lived as Puritans upon the soil where he was born. He had their faith, their hopes, their convictions, their mental habits as well as their moral purposes. He could not see liberty except through the vision which that faith gave him. He saw the purpose and the liberties and institutions of the nation as a Puritan. Somewhere in one of his essays, in this beautiful memorial volume which his wife has collected and dedicated to the people of the State that he loved, is a paragraph which I think I will read in order that you may see what seemed to be always present in his mind when he contemplated his work and his country.

In one of his speeches he said:

> Mr. President, the race to which we belong is the most arrogant and rapacious, the most exclusive and indomitable, in history. It is the conquering and unconquerable race, through which alone man has taken possession of the physical and moral world. To our race humanity is indebted for religion, for literature, for civilization. It has a genius for conquest, for politics, for jurisprudence, and for administration. The home and the family are its contributions to society. Individualism, fraternity, liberty, and equality have been its contributions to the State. All other races have been its enemies or its victims.
>
> This, sir, is not the time, nor is this the occasion, to consider the profoundly interesting question of the unity of races. It is sufficient to say that either by instinct or design the Caucasian race at every step of its progress from barbarism to enlightenment has refused to mingle its blood or assimilate with the two other great human families, the Mongolian and the African, and has persistently rejected adulteration. It has found the fullest and most complete realization of its fundamental ideas of government and society upon this continent, and there can be no doubt that upon this arena its future and most magnificent triumphs are to be accomplished.
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> The exiles of Plymouth and of Jamestown brought hither political and social ideas which have developed with inconceivable energy and power. They ventured upon a hitherto untried experiment, a daring innovation, a paradox in government.
>
> They who rule are those who are to be governed. The rulers frame the law to which they themselves must submit. The kings are the subjects, and those who are free voluntarily surrender a portion of their freedom that their own liberties may be more secure. The ablest soothsayer could not have foretold the wonderful development of the first century of American nationality, the increase in population, the expanse of boundary, the aggrandizement of resources. The frontier has been abolished; the climate has been conquered; the desert subdued. For these conditions, which could not have been predicted, for which there were neither maxims, nor formulas, nor precedents, the genius of the Caucasian race has furnished an equivalent in the Constitution under which we live, an organic law flexible enough to permit indefinite and unlimited expansion and at the same time rigid enough hitherto to protect the rights of the weakest and the humblest from invasion.
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> From its latent resources have been evoked vast and unsuspected powers that have become the charters of liberty to the victims of its misconstruction; beneath its beneficent covenants every faith has found a shelter, every creed a sanctuary, and every wrong redress. It has reconciled interests that were apparently in irrepressible conflict. It has resisted the rancor of party spirit, the vehemence of faction, the perils of foreign immigration, the collision of civil war, the jealous menace of foreign and hostile nations. It has realized up to this time the splendid dream of the great English apostle of modern liberty, who said in the midst of the struggle for the dismemberment of the American Union:
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> "I have another and a broader vision before my gaze. It may be a vision, but I cherish it. I see one vast confederation reaching from the frozen North in unbroken line to the glowing South, and from the wild billows of the Atlantic to the calmer waters of the Pacific main; and I see one people and one language and one law and one faith, and all over that wide continent a home of freedom and a refuge for the oppressed of every race and every clime."

It was this great ideal of the liberties and future of our nation which he seemed to have constantly before him. He spoke of it, he thought of it, he wrote of it, and scarcely any public address of his can be found that in some way does not incite our admiration of his ideal of it. It would be useless for me now to attempt to eulogize such a master of the English language. He played in the intellectual arena as a skillful swordsman with a rapier, and whoever came into contact with him most feared him. I think there was in his sensitive soul the fear of a larger conflict. I doubt whether he ever for a moment felt any fear of a man as a man. I do not think he ever felt any fear of debate or of the intellectual combat with another man. Yet I think he always shrank from the criticism of an adverse popular opinion. He sometimes said that popular opinion was the real sovereign of this nation and must always be so in a government like ours, that the "popular opinion" made and unmade administrations, parties, and men, and I think he shrank from the battle of it.

If he feared anything it was the impersonal mass, the ruthless tyranny, the rash, impetuous action of a misguided, unthinking multitude that might mean the destruction of the beautiful ideal nation. He could see the calamity which could come in this way, and he felt the terror of it and felt the helplessness of one individual in any contest with it. Yet he had in him the elements that would have made him a martyr to a principle of faith. He would have died for the thing that he believed as freely and as bravely as any martyr ever went to the stake for a faith.

There are enough incidents in his life to bear testimony to this.

I do not think he had selected himself for fame. It is easy to say of a man with such an illustrious career that he had an ambition, and it is easy to say of him that he sought the Senate to gratify his ambition. I do not think it could quite be said of him. I know he did not seek the place that we are now giving him, and did not dream that it was his. He sought to serve Kansas; he sought to serve a nation as one of the race that had made it. He did not seek honor for honor's sake. He sought service, and honor came. I said that I know that he did not seek the place which we are now giving him. Speaking of another, he said this:

> The old Hall of the House of Representatives in the Capitol at Washington, which is consecrated by the genius, the wisdom, and the patriotism of the statesmen of the first century of American history, has been designated by Congress as a national gallery of statuary, to which each State is invited to contribute two bronze or marble statues

of her citizens, illustrious for their historic renown, or from distinguished civic and military services.

It will be long before this silent congregation is complete. With tardy footsteps they slowly ascend their pedestals; voiceless orators, whose stony eloquence will salute and inspire the generations of freemen to come; bronze warriors, whose unsheathed swords seem yet to direct the onset, and whose command will pass from century to century, inspiring an unbroken line of heroes to guard with ceaseless care the heritage their valor won.

Kansas is yet in her youth. She has no associations that are venerable by age. All her dead have been the contemporaries of those who yet live. The verdict of posterity can only be anticipated. But, like all communities, we have had our heroic era, and it has closed.

Then he proceeded to suggest another name for this place. But we have selected him.

At various times in our State we have discussed the question of which one of the men who built the Commonwealth of Kansas should be selected for this place. But the warm, generous heart of Hon. Bailey Peyton Waggener, a friend and neighbor in his home city though of the opposite political faith, selected and named Ingalls as the voice which most represented Kansas.

When Mr. Waggener, who is an able and eminent lawyer, as a member of the Kansas legislature proposed the resolution providing for this statue, it was passed by the unanimous vote of both houses. It was the tribute of a noble nature to a friend. It came from one who also loved Kansas and the State responded as to the warm hand clasp of a friend. And now to this hall of fame we give this statue.

Kansas is the child of Plymouth Rock. It is sometimes said she is the daughter of Massachusetts, and it is this son of Massachusetts, coming in a direct line from the land at Plymouth Rock, whom we bring back and put in Statuary Hall to stand speaking the voice of liberty to liberty's children as the centuries come and go. [Applause.]

Mr. MURDOCK. Mr. Speaker, at a reception in the White House, not long ago, the slowly moving line of guests conjectured upon the identity of a certain bust, the name graven upon which was obscure. None guessed aright, as was proved when some one, leaving the line and reading the inscription on the marble, introduced through the haze of half a century to the questioning company the thirteenth President of the United States—Millard Fillmore.

Remembering the incident, while I stood before the image there the other day, the fancy came to me that long hence, when the golden centuries shall lie rich upon the hoary nation's history, when a score of wars shall have added a thousand statues here, a thousand debates a score, when the sculptor shall have survived the sculptured, and Art, preserving what History can not save, shall have survived both, that then some one may still remember Ingalls—Ingalls, of Kansas; Ingalls, the incautious, the daring, the unique—remember him as one who preserved his own personality, persisted in his own point of view, gave audience to impulse, voice to impression; as one who upon occasion loved a whim as dearly as a conviction, and both in the gravity of a small crisis and the abandon of a cataclysm remained the same Ingalls, surrendering no shade of native resolution upon the demand of any man or men or situation whatsoever.

For the Ingalls who, at graduation, wasped the owlish professors in youth was the stinging Ingalls of the Senate in maturity, as the Ingalls of 30 with a soul responding to the ministry of the Kansas landscape was the Ingalls of the Senate reaching for the Infinite in the marvelous eulogies he there pronounced, was the dying Ingalls repeating softly the Lord's Prayer.

For the Ingalls of youth, the Ingalls of eighteen years' Senatorial activity, and the Ingalls old and in defeat are the same—Ingalls always; politically impossible at times, perhaps, but colorless, never.

And Kansas gives a statue notably exceptional herein: That before this day no commonwealth has ever given to a satirist in political life a statue. Literature, too, seldom so rewards them, for there is no Cervantes—marble or bronze—I am told, in all Spain. Dean Swift's memory, if we depended upon art for it, would rest with a bust. Ancient Athens, I have read, had at one time more statues than population, with not a satirist among them, I dare say.

This is the wonder in this earnest of Ingalls's permanent renown. He remained through life himself creator and sole sponsor of the chance children of his brain. He resisted analysis. He defied the political yardstick. No single phrase will measure him. No strictly partisan mind ever comprehended and no partisan pen ever described him. Long activity in Washington works to a procrustean average, seeks to put a common stature upon all who grind through it. It never cut the personality of John J. Ingalls an inch or stretched it a barley corn. He knew, depend upon it, the fixed and rudimentary methods of personal politics, and he scorned them. He understood to the last syllable the game of those who ventured all by conjuring with a single great advocacy; the game, too, of those who ordered their careers in an imponderable and impenetrable negation, and, with cheer, put them away from him; knew the wavering loyalty that follows defense, and when he pleased defended; knew also that attack politically is no part of defense, and needing defense, forthwith, light of heart and to the consternation of his political adherents, attacked. He never, so far as I know, bought an advantage cheaply with a guarded assertion or a qualified indorsement; never hid the main issue in the emphasis of a nonessential. No consideration of safety commanded his silence. All patience he had with the completely serious and discreet of the political world, as is meet, but he did not always withhold a glance of interest at the daring and defying who upon occasion put drama into a dun world.

And the sharpest of his own weapons he carried lightly to the last—satire—the weapon which every aspirant in politics discards instinctively in the primary grade, and which no man ever carried in politics, save to disaster.

For Ingalls in his day breathed an atmosphere heavy with a vigorous commercialism—a commercialism which expected that all should forget, in the radiance of its mighty achievements, that it was granting the divine right to the majority stockholder and holding inviolate the sanctity of all success, a commercialism which demanded that partisan politics, in deference due to high endeavor, should turn deaf and blind to certain attendant tendencies in an epoch that would have asked Peter the Hermit to facilitate the crusade by an issue of bonds; driven the masked Junius to the advertising pages to avoid libel, and, if encouraged in a utilitarian way, would have mourned doubtless the waste of uncommercialized energy in the beat of the sparrow's wings.

Once into such an atmosphere Ingalls threw a glove. He gave a famous interview, in which he declared that the purification of politics was an iridescent dream. He was not inculcating a doctrine but describing a condition. He was challenging, not violating, the ideals of the Republic. The purification of politics is not an iridescent dream. The march has been away from the open and controlled ballot to the secret and uncontrolled one, away from the unguarded primary to the safeguarded one, away from the bad and to the good, not to new ideals, but to reawakened devotion to old ideals.

It is noteworthy, I think, that a satirist, by his challenge, helped to divert the march away from bad and to the good. It is entirely within all precedent, I think, that he should have suffered for his challenge; but it is notably exceptional, I declare, Mr. Speaker, that after such splendid hardihood the satirist should be at all—should be so soon—rewarded. [Loud applause.]

Mr. CURTIS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the resolutions of the Senate in regard to the Ingalls statue, and that the same be placed upon their final passage.

The SPEAKER pro tempore (Mr. REEDER). The Clerk will report the resolutions.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That the statue of John J. Ingalls, presented by the State of Kansas to be placed in Statuary Hall, is accepted in the name of the United States, and that the thanks of Congress be tendered the State for the contribution of the statue of one of its most eminent citizens, illustrious for his distinguished civic services.

Second, that a copy of these resolutions, suitably engrossed and duly authenticated, be transmitted to the governor of the State of Kansas.

The question was taken; and the resolutions were unanimously agreed to.

Mr. CURTIS. Mr. Speaker, I understand some gentlemen who have spoken this afternoon desire leave to extend their remarks in the RECORD, and I ask unanimous consent that that leave be granted.

The SPEAKER pro tempore. If there be no objection, it will be so ordered.

There was no objection.

Mr. CURTIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 40 minutes p. m.) the House adjourned to meet on Monday at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, recommending an amendment to the estimate for preventing the introduction

and spread of epidemic diseases—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of the Navy submitting an estimate of appropriation for barracks and quarters for marines in the Midway Islands—to the Committee on Naval Affairs, and ordered to be printed.

A letter from the Secretary of the Interior, transmitting, in response to an inquiry of the House, a statement as to whether or not Indian trust funds have been expended for support of Indian contract schools—to the Committee on Indian Affairs, and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a statement as to the employment of civilian engineers in the work of improving rivers and harbors—to the Committee on Rivers and Harbors, and ordered to be printed.

A letter from the municipal building commission of the District of Columbia, requesting an increase of the limit of cost of the proposed municipal building—to the Committee on Public Buildings and Grounds, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Elijah P. Myers against The United States—to the Committee on War Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named as follows:

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 17749) authorizing the Kensington and Eastern Railroad Company to construct a bridge across the Calumet River, reported the same without amendment, accompanied by a report (No. 3774); which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 17332) to establish a light-house, and so forth, at Midway Islands, reported the same without amendment, accompanied by a report (No. 3775); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 17273) granting an increase of pension to James J. Furlong—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions..

A bill (H. R. 17828) granting an increase of pension to Patrick Haney—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 17965) granting a pension to Ernest T. Etchells—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18101) granting an increase of pension to S. A. Demarest—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18122) granting a pension to Anna M. Camp—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. McCLEARY of Minnesota, from the Committee on Appropriations: A bill (H. R. 18123) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1906, and for other purposes—to the Union Calendar.

By Mr. HEARST: A bill (H. R. 18124) to authorize the acquisition by the United States of the entire capital stock and property of the Panama Railroad Company, and to provide for the maintenance, operation, and development by the Government of the railroad and steamship properties and lines so acquired—to the Committee on Interstate and Foreign Commerce.

By Mr. MADDOX: A bill (H. R. 18125) to transfer the county of Paulding from the northwestern district to the northern district of Georgia—to the Committee on the Judiciary.

By Mr. PEARRE (by request): A bill (H. R. 18126) to close and open an alley in square No. 806, in the city of Washington, D. C.—to the Committee on the District of Columbia.

By Mr. HEPBURN: A bill (H. R. 18127) to supplement and amend the act entitled "An act to regulate commerce," approved February 4, 1887—to the Committee on Interstate and Foreign Commerce.

By Mr. LITTLE: A bill (H. R. 18128) to authorize the organization of cities of the first class in the Indian Territory—to the Committee on the Judiciary.

By Mr. PAYNE: A bill (H. R. 18129) to amend section 2871 of the Revised Statutes—to the Committee on Ways and Means.

By Mr. DAVIS of Florida: A bill (H. R. 18130) to increase the cost of the public building at Gainesville, Fla.—to the Committee on Public Buildings and Grounds.

By Mr. HEFLIN: A bill (H. R. 18131) to increase pay of mail carriers on the rural free-delivery routes—to the Committee on the Post-Office and Post-Roads.

By Mr. BARTHOLDT: A resolution (H. Res. 460) to investigate the telephone service in the District of Columbia with a view of its improvement—to the Committee on the District of Columbia.

Also, a resolution (H. Res. 461) to investigate the smoke nuisance in the District of Columbia—to the Committee on the District of Columbia.

By Mr. CRUMPACKER: A resolution (H. Res. 463) authorizing the Clerk of the House to pay certain money—to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 18132) granting an increase of pension to Daniel J. Meeds—to the Committee on Invalid Pensions.

By Mr. BANKHEAD: A bill (H. R. 18133) granting a pension to Janie Atnip—to the Committee on Pensions.

Also, a bill (H. R. 18134) granting a pension to Oliver Owen Ball—to the Committee on Pensions.

By Mr. BRADLEY: A bill (H. R. 18135) granting an increase of pension to Jemima Rosencrans—to the Committee on Invalid Pensions.

By Mr. BURLEIGH: A bill (H. R. 18136) granting an increase of pension to George N. Ward—to the Committee on Invalid Pensions.

By Mr. BURNETT: A bill (H. R. 18137) for the relief of Jonathan Lewis—to the Committee on War Claims.

Also, a bill (H. R. 18138) for the relief of the estate of Minor Gwinn, deceased—to the Committee on War Claims.

Also, a bill (H. R. 18139) for the relief of the estate of Samuel L. Gilbert, deceased—to the Committee on War Claims.

Also, a bill (H. R. 18140) for the relief of the estate of Annie Dunn, deceased—to the Committee on War Claims.

Also, a bill (H. R. 18141) for the relief of the estate of Levi Jones, deceased—to the Committee on War Claims.

Also, a bill (H. R. 18142) for the relief of the estate of Green Guest, deceased—to the Committee on War Claims.

By Mr. BYRD: A bill (H. R. 18143) for the relief of John D. Ryan—to the Committee on War Claims.

By Mr. CALDERHEAD: A bill (H. R. 18144) granting an increase of pension to William Stout—to the Committee on Invalid Pensions.

By Mr. CROWLEY: A bill (H. R. 18145) granting an increase of pension to William H. Leonard—to the Committee on Invalid Pensions.

By Mr. DALZELL: A bill (H. R. 18146) granting an increase of pension to Solomon Spradling—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 18147) granting a pension to Schofield Henderson—to the Committee on Pensions.

By Mr. GRIFFITH: A bill (H. R. 18148) granting an increase of pension to Jackson McCreary—to the Committee on Invalid Pensions.

By Mr. GROSVENOR: A bill (H. R. 18149) granting an increase of pension to George W. Williams—to the Committee on Invalid Pensions.

By Mr. HILL of Mississippi: A bill (H. R. 18150) granting a

pension to Leonard S. Johnson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18151) for the relief of the estate of John Dear, deceased—to the Committee on War Claims.

Also, a bill (H. R. 18152) granting a pension to Adolph Le Maitre—to the Committee on Pensions.

Also, a bill (H. R. 18153) granting a pension to Jonathan F. Martin—to the Committee on Invalid Pensions.

By Mr. HITCHCOCK: A bill (H. R. 18154) granting an increase of pension to Elizabeth Davis—to the Committee on Invalid Pensions.

By Mr. HOWARD: A bill (H. R. 18155) to authorize the President to advance First Lieut. James D. Watson in the Artillery Corps of the Army—to the Committee on Military Affairs.

By Mr. HULL: A bill (H. R. 18156) granting an increase of pension to George C. Sackett—to the Committee on Invalid Pensions.

By Mr. HUNTER: A bill (H. R. 18157) granting an increase of pension to John W. Graves—to the Committee on Invalid Pensions.

By Mr. HEFLIN: A bill (H. R. 18158) granting an increase of pension to Albert S. Elmore—to the Committee on Pensions.

Also, a bill (H. R. 18159) granting an increase of pension to Albert S. Elmore—to the Committee on Pensions.

Also, a bill (H. R. 18160) granting an increase of pension to Mary J. Allen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18161) granting an increase of pension to Margaret F. Harris—to the Committee on Pensions.

By Mr. BURNETT: A bill (H. R. 18162) for the relief of the estate of Elizabeth Blakemore, deceased, late of Cherokee County, Ala.—to the Committee on War Claims.

By Mr. HEFLIN: A bill (H. R. 18163) granting an increase of pension to Sydney R. Grigg—to the Committee on Pensions.

Also, a bill (H. R. 18164) to pay Joel Oswalt for stores and supplies—to the Committee on War Claims.

Also, a bill (H. R. 18165) for the relief of Benjamin F. Rea—to the Committee on War Claims.

Also, a bill (H. R. 18166) to pay to the estate of John A. Brown, deceased, the sum of $10,952, for stores and supplies—to the Committee on War Claims.

Also, a bill (H. R. 18167) granting an increase of pension to Delania Preston—to the Committee on Pensions.

Also, a bill (H. R. 18168) to pay the estate of John M. Ellington, deceased, the sum of $7,755, for stores and supplies—to the Committee on War Claims.

Also, a bill (H. R. 18169) to pay to the estate of Robert Mitchell, deceased, the sum of $129,150, for stores and supplies—to the Committee on War Claims.

Also, a bill (H. R. 18170) to divest title out of the United States and vest same in R. W. Allen & Co. to west half of southern quarter, section 34, township 24 north, range 25 east, standard southern meridian, Chambers County, Ala.—to the Committee on Private Land Claims.

Also, a bill (H. R. 18171) for the relief of the estate of Moses K. Wheat, deceased, late of Macon County, Ala.—to the Committee on War Claims.

Also, a bill (H. R. 18172) for the relief of J. I. Cotney—to the Committee on Claims.

Also, a bill (H. R. 18173) to pay the estate of Jerry T. Cloud, deceased, the sum of $2,530—to the Committee on War Claims.

Also, a bill (H. R. 18174) to pay the estate of Phillip Lightfoot, deceased, the sum of $2,312, for stores and supplies—to the Committee on War Claims.

Also, a bill (H. R. 18175) granting an increase of pension to Susan De Lamor—to the Committee on Pensions.

Also, a bill (H. R. 18176) to pay the estate of Mary Daugherty, deceased, the sum of $1,045, for stores and supplies—to the Committee on War Claims.

Also, a bill (H. R. 18177) to pay to the estate of Sampson B. Cloud the sum of $1,595—to the Committee on War Claims.

By Mr. GREENE: A bill (H. R. 18178) for the relief of Patrick Doran—to the Committee on Naval Affairs.

By Mr. KNOWLAND: A bill (H. R. 18179) granting an increase of pension to Charles A. Paulsen—to the Committee on Pensions.

By Mr. MADDOX: A bill (H. R. 18180) granting an increase of pension to Jacob Fulmer—to the Committee on Pensions.

Also, a bill (H. R. 18181) granting an increase of pension to Nancy Ann Smith—to the Committee on Pensions.

By Mr. McMORRAN: A bill (H. R. 18182) granting an increase of pension to James Bothwell—to the Committee on Invalid Pensions.

By Mr. REEDER: A bill (H. R. 18183) granting an increase of pension to Samuel Dunn—to the Committee on Invalid Pensions.

By Mr. RUCKER: A bill (H. R. 18184) granting an increase of pension to Ambrosia Senecal—to the Committee on Invalid Pensions.

By Mr. SHEPPARD: A bill (H. R. 18185) granting an increase of pension to James W. Stell—to the Committee on Pensions.

By Mr. SNOOK: A bill (H. R. 18186) granting an increase of pension to Maggie M. Myers—to the Committee on Invalid Pensions.

By Mr. SPALDING. A bill (H. R. 18187) granting a pension to W. W. Moore—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18188) granting a pension to William Mock—to the Committee on Invalid Pensions.

By Mr. TRIMBLE: A bill (H. R. 18189) to remove the charge of desertion from the military record of John B. Skidmore—to the Committee on Military Affairs.

Also, a bill (H. R. 18190) to remove the charge of desertion from the military record of William Burford—to the Committee on Military Affairs.

Also, a bill (H. R. 18191) to remove the charge of desertion from the military record of Turner Rogers—to the Committee on Military Affairs.

By Mr. YOUNG: A bill (H. R. 18192) granting an increase of pension to Frank Crittenden—to the Committee on Invalid Pensions.

By Mr. BENTON: A bill (H. R. 18193) granting an increase of pension to Holsey Meeker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 18194) granting an increase of pension to William H. Leib—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of the Acme Company, favoring bill H. R. 9302—to the Committee on Ways and Means.

Also, petition of Boardman & Gray, of Albany, N. Y., favoring the Boutell bill (H. R. 9302)—to the Committee on Ways and Means.

Also, petition of the Thomas Francis Meagher Club of United Irish Societies of Chicago, favoring a statue of Commodore John Barry—to the Committee on the Library.

Also, petition of the Savage Arms Company, of Utica, N. Y., favoring bill H. R. 9302—to the Committee on Ways and Means.

Also, resolution of the legislature of the State of Washington, favoring a canal from foot of The Dalles Rapids to the head of Celilo Falls, Columbia River—to the Committee on Rivers and Harbors.

Also, petition of James F. Clark et al., favoring a statue for Commodore John Barry—to the Committee on the Library.

Also, petition of G. W. Perkins, of Chicago, against a reduction of tariff on tobacco from the Philippines—to the Committee on Ways and Means.

Also, petition of Mrs. Henry C. Lytton, of Chicago, favoring a pension for Real Daughters of Daughters of the American Revolution—to the Committee on Pensions.

By Mr. ADAMS of Pennsylvania: Petition of the Philadelphia County Medical Society, favoring bill H. R. 17333—to the Committee on Interstate and Foreign Commerce.

By Mr. BENTON: Papers to accompany bill for the relief of Halsey Meeker—to the Committee on Invalid Pensions.

Also, papers to accompany bill for relief of William H. Lile—to the Committee on Invalid Pensions.

By Mr. BOWERS: Papers to accompany bill for relief of R. D. Rounds—to the Committee on Claims.

By Mr. BRADLEY: Petition of Charles C. Young and others, of Middletown, N. Y., favoring passage of bill H. R. 9302—to the Committee on Ways and Means.

By Mr. BURNETT: Paper to accompany bill for relief of estate of Jonathan Lewis, of Dekalb County, Ala.—to the Committee on War Claims.

Also, paper to accompany bill for relief of estate of Samuel L. Gilbert, of Dekalb County, Ala.—to the Committee on War Claims.

Also, paper to accompany bill for relief of Minor Gwinn, of Franklin County, Ala.—to the Committee on War Claims.

Also, paper to accompany bill for the relief of estate of Annie Dunn, of Marshall County, Ala.—to the Committee on War Claims.

Also, paper to accompany bill for the relief of estate of Green Guest, of Dekalb County, Ala.—to the Committee on War Claims.

Also, paper to accompany bill for relief of estate of Levi Jones, of Marshall County, Ala.—to the Committee on War Claims.

Also, papers to accompany bill for relief of estate of M. Light—to the Committee on War Claims.

Also, petition of John H. Wisdom, asking reference of post-office claim to Court of Claims—to the Committee on Claims.

Also, papers to accompany bill for relief of estate of Elizabeth Blakemore, of Cherokee County, Ala.—to the Committee on War Claims.

By Mr. CASSEL: Petition of Patriotic Order Sons of America, of Strasburg, Pa., for restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. CASSINGHAM: Petition of J. W. Lawrence et al., of Keene Hill Grange, favoring any law favorable to parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. COCKRAN of New York: Papers to accompany bill for the relief of Patrick C. Casper—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Julia Davis, sister of William Galvin, deceased—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Edward Donnelly—to the Committee on Invalid Pensions.

By Mr. COOPER of Texas: Petition of Marshall Council, No. 232, United Commercial Weavers, favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of Red River Lodge, No. 359, Brotherhood of Railway Trainmen, of Gainesville, Tex., favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Garfield Division, No. 219, Brotherhood of Locomotive Engineers, of Marshall, Tex., favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, paper to accompany bill for relief of Dr. James Saunders—to the Committee on Invalid Pensions.

By Mr. CROWLEY: Paper to accompany bill for relief of William H. Leonard—to the Committee on Invalid Pensions.

By Mr. DALZELL: Papers to accompany bill for relief of Solomon Spradling—to the Committee on Invalid Pensions.

By Mr. DAVIS of Minnesota: Papers to accompany bill H. R. 17505—to the Committee on Invalid Pensions.

By Mr. EVANS: Petition for restriction of immigration, from Washington Camp, Patriotic Order Sons of America, of Windber, Pa.—to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the Marine Review, favoring the shipping bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Forest City Creamery Company, of Rockford, Ill., favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Steel Roll Manufacturing Company, of Chicago, favoring increase of power of Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Railway Employees' Twentieth Century Club, of Illinois, favoring legislation compelling use of safety appliances and block system by railways—to the Committee on Interstate and Foreign Commerce.

By Mr. GRIFFITH: Petition of Reeves & Co., of Columbus, Ind., favoring bill H. R. 16560—to the Committee on Agriculture.

By Mr. HITCHCOCK: Papers to accompany bill for relief of Elizabeth Davis, wife of William R. Davis, deceased—to the Committee on Invalid Pensions.

By Mr. HUFF: Petition of G. W. Perkins, of Chicago, against a reduction of tariff on tobacco from the Philippine Islands—to the Committee on Ways and Means.

Also, petition of R. L. Campbell et al., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. KLUTTZ: Papers to accompany bill for the relief of W. L. Bryan, of Boone, N. C.—to the Committee on Claims.

By Mr. KYLE: Petition of J. R. Wilson et al., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. LINDSAY: Petition of the International Cigar Makers' Union, of Chicago, against a reduction of tariff on tobacco from the Philippines—to the Committee on Ways and Means.

By Mr. LITTLE: Petition of citizens of Indian Territory, favoring removal of restrictions on land sales in Territory—to the Committee on Indian Affairs.

By Mr. NEVIN: Petition of Mrs. T. B. Flower et al., favoring the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, petition of Mrs. L. B. Flower et al., against intoxicating liquor selling in Oklahoma and Arizona under any form of Government—to the Committee on the Territories.

By Mr. OTJEN: Petition of the common council of Milwaukee, against closing Fairweather opening of breakwater—to the Committee on Rivers and Harbors.

By Mr. RYAN: Petition of the Cigar Makers' International Union, against a reduction of tariff on tobacco from the Philippines—to the Committee on Ways and Means.

By Mr. SHEPPARD: Paper to accompany bill for relief of James W. Still—to the Committee on Pensions.

By Mr. SNOOK: Paper to accompany bill for the relief of Maggie M. Myers—to the Committee on Invalid Pensions.

By Mr. WEISSE: Petition of G. W. Perkins, of Chicago, against a reduction of tariff on tobacco from the Philippines—to the Committee on Ways and Means.

SENATE.

MONDAY, *January 23, 1905.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. LODGE, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. The Journal will stand approved.

DISTRICT MUNICIPAL BUILDING.

The PRESIDENT pro tempore laid before the Senate a communication from the Commissioners of the District of Columbia, requesting that the limit of cost for the construction of the municipal building for the District of Columbia, authorized by section 6 of the public building act, approved June 6, 1902, be increased from $2,000,000 to $2,500,000; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

SENATOR FROM MASSACHUSETTS.

Mr. LODGE presented the credentials of WINTHROP MURRAY CRANE, chosen by the legislature of the State of Massachusetts a Senator from that State to fill the vacancy in the term ending March 3, 1907, caused by the death of George Frisbie Hoar; which were read and ordered to be placed on file.

Mr. LODGE. I ask that Senator Crane, who is now present, may be sworn in.

The PRESIDENT pro tempore. The Senator will present himself at the desk and the Chair will administer the required oath.

Mr. CRANE was escorted to the Vice-President's desk by Mr. LODGE, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

CREDENTIALS.

Mr. FAIRBANKS presented the credentials of ALBERT J. BEVERIDGE, chosen by the legislature of the State of Indiana a Senator from that State for the term beginning March 4, 1905; which were read and ordered to be filed.

Mr. PERKINS presented the credentials of Frank P. Flint, chosen by the legislature of the State of California a Senator from that State for the term beginning March 4, 1905; which were read and ordered to be filed.

Mr. CRANE presented the credentials of HENRY CABOT LODGE, chosen by the legislature of the State of Massachusetts a Senator from that State for the term beginning March 4, 1905; which were read and ordered to be filed.

Mr. HANSBROUGH presented the credentials of PORTER J. MCCUMBER, chosen by the legislature of the State of North Dakota a Senator from that State for the term beginning March 4, 1905; which were read and ordered to be filed.

CIVIL GOVERNMENT IN THE PHILIPPINE ISLANDS.

Mr. LODGE. I ask unanimous consent that the conference report on House bill 14623, the Philippine government bill, may be withdrawn and that it may be returned to the conferees. There is a correction necessary to be made in the report.

The PRESIDENT pro tempore. The Senator from Massachusetts asks that the conference report on the Philippine bill may be taken from the Calendar and returned to the conferees on the part of the Senate. The Chair hears no objection, and that order is made.